

APPLICATION NO.3775 OF 2017
IN C.S.NO.786 of 1998
PUSHPA SATHYANARAYANA, J.

The above application is filed by the applicant / plaintiff seeking to set aside the order dated 13.01.2015 passed in C.S.No.786 of 1998 and to restore the suit.

2. The suit is filed for recovery of money. It is stated in the affidavit filed in support of the application that when the matter came up for hearing on 13.01.2015 before this Court, the plaintiff was set ex-parte, since the plaintiff's counsel was held up in some other Court and thus, he was not present in the Court. It is also stated that his junior had also gone to attend a case in Alandur Court and hence, he could not represent the Court in time. When the applicant contacted her counsel on 19.01.2015, she came to know about the dismissal of the suit for default on 13.01.2015. According to the applicant, the non-appearance of the counsel on 13.01.2015 was neither willful nor wanton. Hence, this application is filed seeking to set aside the order dated 13.01.2015 in the above suit.

3. Heard both counsels.

4. Today, when the matter was called, the learned counsel appeared on behalf of the applicant /plaintiff and sought for time, as the Senior Counsel was not available.

5. Learned counsel appearing for the respondents /defendants 1 to 3, 5, 6, 8 to 12 has got no serious objection in allowing this application.

7. This Court, having satisfied with the reasons stated in the affidavit filed in support of this application, is inclined to entertain the application in the interest of justice, but however on some terms.

8. The application is allowed subject to the condition that the applicant / plaintiff pays a sum of Rs.5,000/- (Rupees Five Thousand Only) as costs to the Chief Justice Relief Fund, within a period of four weeks from the date of receipt of a copy of this order. If the payment is made within the time stipulated, the suit shall be restored to file.

7. Post the matter on 22.10.2019 "for reporting compliance".

17.09.2019

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