

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 10TH DAY OF DECEMBER 2019

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

A.No.8241 of 2019

in

C.S.NO.126 OF 2014

1.The Bharat Sanchar Nigam Limited,
Tamil Nadu Circle,
Anna Salai, Chennai -02
represented by its Deputy General Manager,
(Enterprises Business)
Office of the Chief General Manager,
Telecom BSNL
Tamil Nadu Circle,
Ethiraj Salai,
Chennai 600 008.

2.The General Manager,
Telecom BSNL,
South By-pass Road,
Vannarapettai,
Tirunelveli 627 003. ...Plaintiffs

-vs-

1.M/s. Infoplus Technology Private Limited,
Rep.by its Director,
Mr.R.Siva,
having office at,
61, Development Block Estate,
Perungudi, Chennai 96.

2.Anna University,
Represented by its Registrar,
Guindy, Chennai 32. ...Defendants

A.No.8241 of 2019:

M/s.Infoplus Technology Private Limited,
Rep.by its Director,
R.Siva,
having office at,
61, Development Block, Estate,
Perungudi, Chennai 96. ..Applicant/1st Defendant

1.The Bharat Sanchar Nigam Limited,
Tamil Nadu Circle,
Rep. by its DGM (Enterprises Business)
Office of the Chief General Manager, Telecom BSNL
Tamil Nadu Circle, Ethiraj Salai,
Chennai-600 008.

2.The General Manager,
Telecom BSNL,
South Bypass Road,
Vannarapettai,
Tirunelveli 627 003.Respondents/Plaintiffs

3.Anna University,
Rep. by its Registrar,
Guindy, Chennai 600 032.Respondent/2nd Defendant

Application praying that this Hon'ble Court may be
pleased to condone the delay of 368 days in filing the
Application to set aside the exparte decree dated
06.06.2018 passed in C.S.No.126/2014.

Application coming on this day before this Court
for hearing, the Court made the following order:

The suit is of the year 2014 filed for recovery of
money was decreed and exparte on 06.06.2018. After
affording several opportunities to the defendants but
earlier engaged counsel by filing vakalat but failed to
contest the matter. After passing the decree, the decree
holder/plaintiff has caused notice to the defendants for
honouring the decree. Thereafter, the defendants have come
out with this application to condone delay of 368 days to
file application to set aside the exparte decree. If the
petitioner, in the affidavit accompanied with this
application has stated that, though engaging a counsel due

to the pre-occupation with some other work, they could not instruct the counsel and only after the notice from the decree holder, they came to know about the *exparte* decree.

2. It is seen from the affidavit that, the defendants have not taken any interest in defending the case and after suffers a decree, had come out with invented story by filing an application to condone the delay of 368 days.

3. The Learned Counsel for the decree holder/plaintiff would submit that, the defendants were actively conducting the case but wantonly to avoid adverse judgment, they keep on shifting the residence and evading notice. Even after the decree, they come forward to pay the decreetal amount but try to protract the proceedings by filing present application to condone the delay. It is also pointed out by the decree holder/plaintiff that, even now the defendants have not exposed their bonafide without filing the written statement. They only sought for condonation of delay in setting aside the *exparte* decree.

4. Heard the Learned Counsel for the petitioner/defendant and the learned Counsel for the respondent/plaintiff.

5. The Plaintiff/BSNL is a Government undertaking enterprises, which has engaged the applicant/defendant to

conduct e-governing examination of the various affiliated colleges under the Anna University. Being the successful bidder, had failed to honour the contract and thereby caused loss to the plaintiff' to tune of Rs.1,09,66,382/-.

6. In such circumstances, when the suit was filed, the defendants have deliberately evaded notice and even after receipt of the notice and engaging the counsel, they did not contest the suit. Hence, this Court is of the view that, there is no merit in the application to condone the delay of 368 days. Accordingly, the **Application No.8241 of 2019 is dismissed.** With costs.

Sd./-G.J.J
10.12.2019

//Certified to be true copy//
Dated at Madras this the day of 2019.

JJ 19/12/2019

COURT OFFICER(O.S.)

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