

A.No.2811 of 2020
in
C.S.No.352 of 2018

C.V.KARTHIKEYAN J,

The application has been filed by the 6th defendant in the suit to condone the delay of 726 days in filing this application to set aside the preliminary decree dated 11.09.2018.

2.This Court was not satisfied with the affidavit filed, since the applicant only stated that the notices were misplaced. Thereafter, this Court directed to the applicant to file a better affidavit by giving specific details regarding the date and service of notice.

3.In the additional affidavit filed in support of the application, it is stated that actually the notice has been served and the notice could not be traced in respect of the best efforts taken. In the earlier affidavit it has been stated that the notice has been served in Application No.5750 of 2019 and the same was misplaced in the office of the applicant during cleaning process. Thereafter, the ex-partee order was passed.

4.A counter has been filed on behalf of the plaintiff.

C.V.KARTHIKEYAN.J,

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5.Heard, the learned counsel for the applicant and also the learned counsel for the respondent/plaintiff.

6.In view of the reasons stated in the affidavit particularly that the notice was received and the same was misplaced, the application is allowed.

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11.03.2021

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