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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 30TH DAY OF JULY 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

A.No.9604 of 2019

in

C.S.No.634 of 2018

M/s. Matrimony.com Limited.,
No.94, TVH Beliciaa Towers,
Tower-2, 10th Floor,
MRC Nagar, Mandaveli,
Chennai 600 028.
Rep.by its General Manager – Legal & Regulatory
Mr.S.Ravichandran

:Plaintiff

-Versus-

Thodu Needa Telugu Matrimony,
6-1-338/12, 2nd Floor,
Beside Saibaba Temple,
Padmarao Nagar, Secunderabad.

: Defendant

A.No. 9604 of 2019

Thodu Needa Telugu Matrimony,
Rep.by its Proprietor
Venkat Reddy Patiolla
6-1-338/12, 2nd Floor,
Beside Saibaba Temple,
Padmarao Nagar, Secunderabad.

: Applicant

-VS-

M/s. Matrimony.com Limited.,
No.94, TVH Beliciaa Towers,
Tower-2, 10th Floor,
MRC Nagar, Mandaveli,
Chennai 600 028.



Rep.by its General Manager – Legal & Regulatory
Mr.S.Ravichandran

:Respondent

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Application praying that this Hon'ble Court be pleased to condone the delay of 364 days in filing the written statement in C.S.No.634 of 2018.

This Application coming on this day before this court for hearing in the presence of Mr.S.Parthasarathy, Advocate for the Applicant herein and Mr.Keerthikiran Murali for Mr.Arun C.Mohan, Advocates for the respondent herein and upon reading the judges summons and the affidavit of Venkat Reddy Patiolla, filed herein, It is ordered as follows:

That the applicant herein, shall pay a sum of Rs.10,000/- (Rupees ten thousand only) as costs to the Plaintiff on or before 14.08.2021.

2. That on such payment within time as mentioned above, the delay of 364 days in filing the written statement in C.S.No.634 of 2018, be and is hereby condoned.

3. That the A.No.9604 of 2019 in C.S.No.634 of 2018 be posted on 17.08.2021.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
30th DAY OF JULY 2021.

Sd./-

ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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06.08.2021
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A.No.9604 of 2019
in
C.S.No.634 of 2018

ORDER :-

DATED:30.07.2021

THE HON'BLE DR.JUSTICE
G.JAYACHANDRAN

FOR APPROVAL:09.08.2021

APPROVED ON: 09.08.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 30TH DAY OF JULY 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

A.No.9604 of 2019

in

C.S.No.634 of 2018

M/s. Matrimony.com Limited.,
No.94, TVH Beliciaa Towers,
Tower-2, 10th Floor,
MRC Nagar, Mandaveli,
Chennai 600 028.

Rep.by its General Manager – Legal & Regulatory
Mr.S.Ravichandran

:Plaintiff

-Versus-

Thodu Needa Telugu Matrimony,
6-1-338/12, 2nd Floor,
Beside Saibaba Temple,
Padmarao Nagar, Secunderabad.

: Defendant

A.No. 9604 of 2019

Thodu Needa Telugu Matrimony,
Rep.by its Proprietor
Venkat Reddy Patiolla
6-1-338/12, 2nd Floor,
Beside Saibaba Temple,
Padmarao Nagar, Secunderabad.

: Applicant

-VS-

M/s. Matrimony.com Limited.,
No.94, TVH Beliciaa Towers,
Tower-2, 10th Floor,
MRC Nagar, Mandaveli,
Chennai 600 028.



Rep.by its General Manager – Legal & Regulatory
Mr.S.Ravichandran

:Respondent

Application praying that this Hon'ble Court be pleased to condone the delay of 364 days in filing the written statement in C.S.No.634 of 2018.

This Application coming on this day before this court for hearing The court made the following order:-

The suit for infringement of trademark and passing off filed before the Commercial Division of this Court was earlier decreed exparte on 02.01.2019 by this Court. The defendant aggrieved by the exparte decree had taken out an application to set aside the exparte decree and the same was allowed in O.S.A.No.129 of 2019 by the Division Bench of this Court by order dated 18.07.2019. While allowing the application to set aside the exparte decree, the Division Bench has restored the suit for trial afresh in accordance with law on condition that the defendant deposits a sum of Rs.5 lakhs in the suit account. The defendant accordingly has deposited Rs.5 lakhs and after obtaining the order copy of the Division Bench in OSA No.129 of 2019 on 14.10.2019 has filed written statement on 13.11.2019 along with the affidavit to condone the delay in filing the written statement.



written statement filed within 30 days from the date of order passed by the Division Bench. However, since the exparte order was passed on 02.01.2019, the delay is reckoned from that date.

3. Learned counsel for the plaintiff submitted that even after the period between the order of exparte till the order of setting aside the exparte i.e., 02.01.2019 to 18.07.2019 is excluded, there is more than 120 days delay in filing the written statement since the (suit summon was received by the defendant on 03.10.2018 and thereafter, the present written statement filed on 13.11.2019, which is beyond (30+90) days limitation prescribed under the Commercial Courts Act.

4. Learned counsel for the applicant submitted that the strict time line prescribed under the Commercial Courts Act need not be applied in the present case due to special facts and circumstances wherein the applicant was misled by the erstwhile counsel against whom the applicant has taken steps for necessary action under the Bar Council of India Act. In such circumstances, to give a fair opportunity for the defendant to contest the matter, the delay has to be condoned. To show bonafide, the defendant has deposited Rs.5 lakhs as mandated by the Division Bench.

5. This Court is of the view that the submission made by the learned



counsel for the applicant/defendant has to be given due weightage in view of the fact that the party before the Court had been misled by his erstwhile counsel and been fastened with an ex parte decree. Therefore, the strict time line need not be applied for the present case due to special facts and circumstances, moreso, when the defendant was asked to deposit Rs.5 lakhs by the Division Bench in order to afford an opportunity to contest the suit. If the written statement is not taken on file, the right to defend the suit may not be satisfied. For that reason, this application in A.No.9604 of 2019 is allowed with cost of Rs.10,000/- (Rupees Ten Thousand only) to the plaintiff on or before 14.08.2021.

Call the matter on **17.08.2021**.

Sd./-(G.J.J.,)

27.07.2021

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Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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