



A.No. 685 of 2022
in
C.S.No. 822 of 2012

V.BHAVANI SUBBAROYAN, J.

This application has been filed to condone the delay of 2842 days in filing the written statement.

2. According to the applicant/second defendant, the first respondent/plaintiff has filed the suit in O.S.No. 90 of 2010 before the learned District Munsif Court, Tiruttani, on the same set of facts with pleadings almost similar to that of the present suit in C.S.No.822 of 2012. The applicant/D2 has not received any summons in the above suit as to why the address shown in the plaint is not correct address. The correct address of the ancestral home is No.1/12, Shop Street, K.N. Road, Puthur Town, Andhra Pradesh, however, he has been residing at Harishchandrapuram in Tiruvelangadu and doing his business for the past 2-1/2 decades. The address of the defendants given in the suit in O.S.No.90 of 2010 is different from the present suit in C.S.No.622 of 2012. Hence, he is not able to understand the reason as to why the plaintiff is giving two different addresses in each suits. Therefore, the applicant/D2 has obtained only a copy of the plaint and full set of



WEB COPY

documents from the plaintiff's counsel. Thereafter, he could not meet the counsel and prepare the written statement, in view of the non-proper service of summons and ongoing pandemic COVID-19 situation and his ill-health. Since the reason for delay in filing of his written statement is a *bona fide* reason. Hence, he prayed for condoning the delay.

3. A counter affidavit has been filed by the first respondent/plaintiff, wherein it has been stated that the plaintiff in C.S.No.822 of 2012 seeking the relief of declaration and permanent injunction and also filed the petition for grant of leave to file the above suit. This Court, after verification of the averments made in the plaint, granted leave and the plaintiff was also directed to file the suit for permanent injunction before the District Munsif Court, Tiruttani. As per the order of this Court, the plaintiff has filed the suit for permanent injunction before the District Munsif Court, Tirutani. In the above suit, the plaintiff has taken out summons to the defendants, in which, the respondents herein received the summons and filed Vakalath through their counsel. Even during the trial proceedings in O.S.No.90 of 2010 before the District Munsif Court, his counsel informed the Court that the above



suit is pending before this Court and the applicants herein have contested the suit. Now, after the lapse of seven years, with a false reason that they are not residing in the address mentioned in the plaint, he has filed this application. Hence, the delay cannot be considered, hence, this application is liable to be dismissed.

4. On a perusal of the application and counter affidavit, it is seen that the first respondent/plaintiff has filed the suit in O.S.No.90 of 2010 on the file of District Munsif Court, Tirutani, on the very same set of facts with pleadings almost similar to that of the present plaint in C.S.No. 822 of 2012. The respondents 1 to 3 are residing at No.1/12, Shop Street, K.N. Road, Puthur Town, Andhra Pradesh which is the plaint address and notice was served on them to the aforesaid address, however, summons could not be served on the defendants. Therefore, this Court is of the view that the reason for delay in filing of the written statement is due to the above said *bona fide* reason.



WEB COPY

5. In view of the above facts, this application is allowed on payment of cost of Rs.10,000/- (Rupees Ten Thousand Only) to the Advocate Clerks' Association on or before 25.03.2022.

6. Post the Civil Suit on 29.03.2022.

14.03.2022

msm



WEB COPY

V.BHAVANI SUBBAROYAN, J.

msm

A.No. 685 of 2022
in
C.S.No. 822 of 2012

14.03.2022