



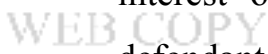
A.A.NAKKIRAN, J.

This application has been filed by the applicant/2nd defendant to condone the delay of 192 days in filing the application to set aside the exparte decree dated 02.11.2016 passed by this Court in the above suit.

2. Heard both sides.

3. The learned counsel for the applicant/2nd defendant submitted that the 2nd defendant has not been served with any notice / summons, neither in the suit nor in the execution petition. Only on 15.02.2022, he came to see the order of this Court dated 02.11.2016 passed in C.S.No.523 of 2010 through the High Court website. The plaintiff have completely suppressed the material fact of repayment of a sum of Rs.39,75,000/- paid by the 2nd defendant and obtained an exparte order. The non appearance of the 2nd defendant on 02.11.2016, is neither willfull nor wanton, but due to the reasons stated above. Therefore, he prays to set aside the exparte order passed against the defendant.

4. The learned counsel for the respondent/plaintiff would submit that the applicant has approached this Court with unclean hands. The suit is of the year 2010 and an exparte order was passed by this Court on 02.11.2016. Subsequently, an execution petition was also filed in the year 2019 and the same is pending. Now, the applicant/2nd defendant is liable to pay more than Rs.1,60,00,000/-. The reasons stated by the applicant for his non-appearance is not acceptable one. Hence, he strongly opposed to allow this application.



6. Post the matter on 14.07.2022.

uma

C.S No.523 of 2010