



A.No.2400 of 2022
in TOS No.5 of 2020



A.A.NAKKIRAN, J.

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This application has been filed by the applicant/defendant to set aside the exparte order dated 04.04.2022, in TOS No.5 of 2020.

2. Heard both sides.

3.The learned counsel for the applicant/defendant submitted that on 04.04.2022, when the case was posted for filing of written statement by the defendant, both the defendant and his counsel were not able to appear before this Court and file the written statement. Hence, the defendant was set exparte on 04.04.2021. Due to urgent personal work, the defendant's counsel was not able to represent the case. The non-appearance and non-filing of the written statement is neither willful nor wanton, but due to the aforesaid reasons. Therefore, he prays to set aside the exparte order passed against the defendant.

4. The learned counsel for the respondent/plaintiff would submit that due to non-filing of written statement within a time limit, the defendant was set exparte, and there is a delay of 119 days in filing the written statement. Further, the reasons stated by the applicant for his non-appearance and non-filing of the written statement is not acceptable one. Hence he opposed to allow this application.



A.A.NAKKIRAN, J.



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5. Considering the facts and circumstances of the case, in the interest of justice, by giving one more opportunity to the defendant to contest the suit on merits, this Court is inclined to allow this application.

6. Accordingly, this application is allowed on condition that the applicant/defendant pays a sum of Rs.500/- (Rupees Five hundred only) as cost, to the respondent/plaintiff.

7. Registry is directed to number the condone delay application filed by the defendant, in filing the written statement and post the matter on 13.07.2022.

29.06.2022

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