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A.No.3866 of 2022 in C.S.No.472 of 2009

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G.CHANDRASEKHARAN, J.

A.No.3866 of 2022 in C.S.No.472 of 2009 is filed to set aside the ex-parte order dated 23.03.2021, passed in O.S.No.472 of 2009, against the applicant, who is the first defendant in the suit.

2.The learned counsel for the applicant submitted that the previous counsel had not filed the written statement in time and that was the reason for setting the applicant ex-parte on 23.03.2021.

3.This application is opposed by the first respondent/plaintiff on the ground that there is delay of more than 500 days in filing this application and the trial has already commenced and examination of PW1 is completed.

4.Heard the learned counsel for the other respondents also who are the co-defendants in this case.

5.Considered the rival submissions. This application is filed only to



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set aside the ex-parte order passed against the applicant for not filing the written statement. Of course, there is a delay of more than 500 days in filing the application to set aside the ex-parte order. However, this Court finds that though the trial has commenced, the examination of PW1 is completed and pending for other PWs, the first defendant is a power agent and other defendants are owners of the property. In a suit filed for specific performance against the defendants, the presence of the first defendant/applicant is absolutely necessary for effective and binding adjudication of the lis between the parties.

6.In this view of the matter, this Court is inclined to allow this application. This Court directs the concerned learned Additional Master to recall PW1 for cross examination by all the defendants. Post the matter before the concerned learned Additional Master on 04.11.2022.

sli

19.10.2022

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