



A.No.2809 of 2023 in

TOS.No.6 of 2020

R.N.MANJULA,J.

This application has been filed to set aside the order of *exparte* as against the applicants / defendants 2 to 5 dated 14.02.2022 in TOS.No.6 of 2020.

2. The learned counsel for the applicants / defendants submitted that the defendants are residing in different places far away from Chennai and hence it took some considerable time to affix their signatures in the written statement; the non filing of the written statement within the prescribed time is not wanton and hence in the interest of justice, the *exparte* order passed against the defendants should be set aside.

3. The learned counsel for the respondent / plaintiff submitted that the delay was wanton and the hardship caused to the plaintiff due to the delay caused by the defendants in filing the written statement in time should be compensated by way of imposing cost.

4. The suit has been filed in the year 2020. The defendants had entered appearance as early as in the year 2020. Only in view of the caveat filed by the defendants, the original petition has been converted into TOS. However, the defendants have not filed the written statement for two years.

R.N.MANJULA,J.



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5. Since the defendants are aware of the proceedings, they should have cooperated for early trial for filing the written statement in time. However, in the interest of justice, I feel an opportunity should be given to the defendants to file their written statement. But, the hardship caused to the respondent / plaintiff should also be compensated by way of imposing cost.

6. In the result, this application is allowed on condition that the applicants/ defendants should pay a cost of Rs.1000/- to the respondent / plaintiff.

7. The above condition complied by paying the cost immediately. Hence, the application is allowed.

13.06.2023

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