



A.No.3089 of 2023 in

C.S.No.497 of 2014

R.N.MANJULA,J.

The applicants are the defendants 9 to 11 who got impleaded themselves by virtue of the order dated 28.11.2022 in A.No.3359 of 2022. This application has been filed to set aside the exparte order passed against the defendants 9 to 11 on 02.02.2023.

2. The learned counsel for the applicants submitted that the applicants / defendants 9 to 11 are the subsequent purchasers who have been impleaded as D9 to 11 at the instance of the plaintiffs who had filed the application to implead D9 to 11 as parties to the proceedings; despite the matter was listed for at least five occasions from 02.02.2023, the name of the learned counsel for applicants has not been printed in the cause list and in view of that, they are not able to follow the case and later, the applicants came to understood that they were set exparte on 02.02.2023 and the issues have been framed and the matter was listed before the Master for recording evidence; the omission to file written statement within the time is not wilful and hence the exparte order dated 02.02.2023 should be set aside.

3. The applicants / defendants 9 to 11 who had made their appearance as early as on 15.12.2022, would have been aware that their written statement ought to have been filed within the statutory time limit of 90 days. The learned counsel for the applicants have stated that the



omission of his name in the cause list was a reason for his non appearance. Even though that might be the reason, the applicants ought to have been vigilant in following the matter and filed their written statement within the specific time frame.

4. However, it is seen that the applicants have come out with a written statement and that is annexed along with this application. Taking into consideration the reasons stated and the pendency of the trial, I feel in the interest of justice, this application should be allowed and the written statement filed by D9 to D11 also should be received on file. However, the hardship caused to the plaintiffs should also be compensated by way of imposing cost.

5. Accordingly, this application is allowed on condition that the applicants / defendants 9 to 11 should pay a cost of Rs.1000/- to the plaintiffs

6. The above condition complied forthwith by paying the cost. Hence, the application is allowed.

23.06.2023

gsk

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