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A.No. 3363 of 2023

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in
C.S.No. 975 of 2010

P.T.ASHA, J.

The 1st defendant has moved this application for setting aside the ex parte order passed against her on 06.01.2022. The suit has been filed by the 1st respondent / plaintiff for a declaration that they are the exclusive copy right holder of the cinematography “Malle Puvva” (Telugu Film) besides the other relief. The suit C.S.No.974 of 2010 has also been filed in respect of another Telugu Film, Dongalapundi.

2. The applicant would submit that she is not a party in the other suit, namely, C.S.No.974 of 2010. However, it appears that the suit numbers got interchanged, as a result of which the summons in C.S.No.974 of 2010 was served on the defendants in C.S.No.975 of 2010 and vice versa. The parties were therefore set ex parte and the matter was sent for recording the evidence.



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3. It is only when the matter had come up before this Court on 08.09.2021 that the Court had directed summons to be served on the applicant's counsel as required under Order IV Rule 7 of the Original Side Rules and directed the applicant to file her written statements within 30 days. The suit summons was served on the counsel and the counsel had contacted the applicant seeking instructions for preparing the written statement and the same is also filed on 04.08.2016. The written statement was returned and after the counsel had taken return the said written statement was misplaced in their office and it took some time to locate the same. The applicant had thereafter engaged the service of another counsel. While so, the earlier counsel had contacted the applicant and informed her that the original written statement had been located and they had asked the parties to go over to collect the written statement.

4. The applicant would submit that she had checked the e-Courts status of the case. She finds that the case had come up on several dates.



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However, the learned counsel's name had not been printed and an ex parte order came to be passed on 06.01.2022. The applicant would submit that the non-appearance and non-filing was only on account of the above reasons and that she has been very diligent in conducting the case and following it up with her counsel.

5. No counter has been filed on the side of the respondent / plaintiff and they would state that the same could be allowed on terms.

6. Heard the learned counsels.

7. No ex parte decree has been passed in the suit and the same is still pending on the file of this Court. The applicant has been diligent in the following up the suit and the ex parte order has occurred on account of the mix up in the suit summons. Therefore, in the interest of Justice an opportunity should be given to the applicant to submit her case particularly when a written statement has been filed as early as in the year 2016. Consequently, the application is allowed.



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8. The applicant shall file necessary applications for re-presenting the written statement without undue delay. Post the matter on 02.08.2023.

17.07.2023

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