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C.M.P.2337 of 2023
in O.S.A.No.313 of 2017

C.M.P.No.2337 of 2023
in
O.S.A.No.313 of 2017

S.S.SUNDAR, J
and

P.B.BALAJI, J

(Order of Court made by S.S.Sundar,J)

This application is filed to set aside the ex-parte order of this Court dated 20.03.2019 allowing C.M.P.No.4336 of 2019 and directing that the petitioner be impleaded as party/second respondent in O.S.A.No.313 of 2017 and restore the same on the file of this Court for being heard on merits.

2. The learned counsel for the petitioner submitted that the proposed party is a third party to the proceedings and is impleaded without hearing the petitioner herein. In the affidavit filed in support of the petition, he has stated that the petitioner in C.M.P.No.4336 of 2019 was permitted to serve notice privately. Though the petitioner has received the notice with intimation that the petition will be heard on 15.03.2019, the matter was not listed on that day and it was thereafter the petitioner came to know that the

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matter was listed on 20.03.2019 and despite the petitioner being not given intimation about the listing of the case on 20.03.2019, the matter was taken up and the petitioner in C.M.P.No.4336 of 2019 was impleaded as a party to the appeal. Since the application is decided not on merits, but due to non-appearance of the petitioner on the earlier occasion, the petitioner has filed the present petition.

3. We are satisfied that the petitioner is entitled to be heard before the order is passed on merits in the application to implead the petitioner as a party to the Original Side Appeal. In the said circumstances, this Court is inclined to allow this petition. Accordingly, this petition is allowed as prayed for.

(S.S.S.R.,J) (P.B.B., J)

24.02.2023

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