



A.No.3326 of 2017
in C.S. No.311 of 2014

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R.N.MANJULA, J.

This application has filed to set aside the *ex parte* order that has been filed against the applicant on 06.04.2017.

2. The suit has been filed for the relief for recovery of money.

3. The learned counsel for the applicant / defendant submitted that the written statement has already been filed with an application to condone the delay and the same was returned on 02.07.2016 and it is represented on 20.03.2017; in the meanwhile the learned counsel for the defendant Mr.R.Balachandren met with an accident and he was not able to attend the Court; his junior counsel inadvertently failed to get any instruction from his Senior and no proper representations have been made before the Court; hence the *ex parte* order dated 06.04.2017 should be set aside.

4. The learned counsel for the respondent / plaintiff has filed a counter by stating that the applicant was reckless and negligent in conducting the proceedings in a manner known to law; the written statement was not represented before the learned Master and hence the application to condone the delay has been filed just to delay the proceedings and the reasons stated in it is far from satisfactory.



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5. The suit has been pending from the year 2014. Despite the defendant had filed his written statement it was not in proper form and hence it was returned.

6. The learned counsel for the applicant submitted that the delay was only because of the personal inconvenience of the counsel who had been appearing on behalf of the defendant at the relevant point of time. For the failure on the part of the counsel, the party should not get affected.

7. Despite the failure on the part of the counsel, the defendant should also have the obligation to approach his counsel and see whether his pleadings are filed in time. However taking into consideration of the submission now made by the applicant and also taking note of the fact that the written statement have been filed at least in a defective manner, I feel an opportunity should be given to the applicant on condition.

8. In view of the above stated reasons, this application is allowed on condition that the applicant should verify whether his defects are complied and written statement is filed along with the application to condone the delay if any within a period of two weeks, failing which the benefit of this order will get forfeited.

06.04.2023

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