



WEB COPY

A.No.4438 of 2023
in C.S No.306 of 2013

A.A.NAKKIRAN, J.

This application has been filed by the applicant/defendant to condone the delay of 336 days in filing the set aside application setting aside the exparte decree dated 04.04.2017 made in C.S No.306 of 2013.

2. Heard both sides.

3. The learned counsel for the applicant/defendant submitted that the defendant was set exparte by this Court on 04.04.2017 due to his non-appearance and he came to know the exparte decree only on 30.01.2018, when he received a letter dated 24.01.2018 in E.P No.2 of 2018 & 3 of 2018 in C.S No.306 of 2013. Though the defendant had filed vakalat as early as on 07.07.2013, his counsel name was not printed in the cause list and his counsel was also not aware of the exparte decree. The non-appearance of the defendant is neither willful nor wanton, but due to the aforesaid reasons. Hence the applicant/defendant has come forward with the present application in filing the set aside application and, he prays to allow this application.

4. The learned counsel appearing for the respondents/plaintiffs submitted that all the averments stated by the applicant in this application are false and frivolous and not even a single bonafide reason has been mentioned for condoning the delay for each day and hence, she strongly opposed to allow this application.



5. Though the reason stated by the applicant/defendant in allowing this application is not bonafide, in the interest of justice, by giving one more opportunity to the applicant/defendant to contest her case on merits, this Court is inclined to allow this application by imposing cost.

6. Accordingly, this application is allowed on condition that the applicant/defendant pays a sum of **Rs.2,000/- (Rupees Two Thousand only)** as cost, to the **Little Hearts Mentally ILL Home, Kadapakkam, Kancheepuram, Cell No.9940617712** on or before 13.09.2023. In the event of failure on the part of the applicant in paying the said amount within the stipulated time, this application shall stand dismissed automatically without any further reference to this Court.

7. Post the matter on 14.09.2023.

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05.09.2023

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