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A. No.421 of 2024

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in
C.S. No.97 of 2021

ABDUL QUDDHOSE, J.

This application has been filed by the plaintiff seeking permission of this Court to withdraw the amount of Rs.4,17,711.21 deposited by the applicant / plaintiff to the credit of this suit pursuant to an interim order, dated 15.04.2021 passed by this Court.

2. Admittedly, a judgement and decree has been passed in favour of the plaintiff in C.S. No.97 of 2021. As seen from the said judgement and decree, the suit has been decreed by granting declaration and permanent injunction as prayed for in the suit and also by directing the defendant to pay the cost of the suit. During the pendency of the suit, pursuant to an order, dated 15.04.2021, the plaintiff has been depositing sums of money to the credit of the suit C.S. No.97 of 2021 and as on date a sum of Rs.4,17,711.21, is still available as seen from the averments contained in the affidavit filed in support of this application. Since the plaintiff has succeeded in the suit by getting a judgement and decree in his favour on 31.03.2023, the plaintiff seeks for payment out of the sum of Rs.4,17,711.21, which is now lying to the credit of the suit. The plaintiff has also filed the certificate of funds along with this application to



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prove that a sum of Rs.4,17,711.21 is available to the credit of C.S. No.97 of 2021, which is deposited by the plaintiff, pursuant to orders passed by this Court in an interlocutory application.

3. This Court is satisfied with the reasons contained in the affidavit filed in support of this application for permitting payment out of the funds now lying to the credit of the suit.

4. The learned counsel for the defendant, who was earlier appearing for the defendant appears through video conferencing. She would oppose allowing this application as she would submit that the defendant will be filing an application seeking to set aside the exparte decree dated 31.03.2023 passed in C.S. No.97 of 2021. The exparte decree was passed as early as on 31.03.2023. Till date, no application has been filed by the defendant to set aside the exparte decree, though the counsel, who had appeared for the defendant earlier would submit that in due course, an application will be filed. As on date, the learned counsel for the defendant has no legs to stand as no application filed by the defendant is pending consideration by this Court. Admittedly, no application has also been served on the learned counsel for the plaintiff by the defendant seeking to set aside the exparte decree. The plaintiff's copyright over the



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subject movies has been proved as seen from the exparte decree dated 31.03.2023 passed by this Court in C.S. No.97 of 2021. Therefore, this Court will have to necessarily allow this application and permit the plaintiff to withdraw Rs.4,17,711.21, deposited by the plaintiff during the pendency of the suit in C.S. No.97 of 2021, pursuant to the directions issued by this Court on 15.04.2021 in O.A. No.155 of 2023.

5. For the foregoing reasons, this application is allowed as prayed for and the plaintiff is permitted to withdraw the amount of Rs.4,17,711.21 deposited by the plaintiff and lying to the credit of the suit in C.S. No.97 of 2021, Registry is directed to issue the cheque in favour of the plaintiff for the aforesaid amount.

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