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**A.No.787 of 2024
in
C.S.No.315 of 2019**

ABDUL QUDDHOSE.J.,

A.No.787 of 2024 has been filed by the Judgment Debtor seeking to condone the delay of 1625 days in filing an application seeking to set aside the *ex-parte* judgment and decree dated 19.07.2019 passed by this Court in C.S.(Comm. Div.) No.315 of 2019.

2. The applicant is the defendant in the suit C.S.(Comm. Div.) No.315 of 2019. The said suit was filed for recovery of money by the respondent / decree holder. The respondent / decree holder is an actor and the applicant / judgment debtor is a producer. On account of the non payment of the respondent's / decree holder's dues, the suit was filed by him against the applicant / judgment debtor.

3. The suit summons in C.S.(Comm. Div.) No.315 of 2019 was served on the applicant / judgment debtor on 03.06.2019. Despite service of the suit summons, the applicant / judgment debtor failed to enter appearance in C.S.(Comm. Div.) No.315 of 2019 and defend the case on merits.



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Thereafter, he was set *ex-parte* by this Court and an *ex-parte* judgment and decree dated 19.07.2019 came to be passed in favour of the respondent / decree holder.

4. The present application has been filed seeking to condone the delay of 1625 days in filing the application seeking to set aside the *ex-parte* judgment and decree dated 19.07.2019. As seen from the affidavit filed in support of A.No.787 of 2024, the applicant / judgment debtor acknowledges the receipt of the suit summons from this Court in C.S.(Comm. Div.) No.315 of 2019. However, only on the ground that since he was pre-occupied with other engagements with regard to his business viz., production of movies, he did not make arrangement for defending the suit on merits.

5. Even in the counter affidavit in E.A.No.3281 of 2020 in paragraph No.6 of the said counter affidavit, he has only stated that he was totally unaware of the proceedings happening before this Court as he was pre-occupied and was involved in several other movie productions. Even in the affidavit filed in support of A.No.787 of 2024, he has only stated in



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paragraph No.11 that he was not aware of the summons issued to him and that is the reason for non appearance earlier in the suit. He has not stated that he did not receive the suit summon. The Registry has also submitted a report to this Court that the suit summons have been duly served on the applicant / judgment debtor. While that be so, when no contra evidence has been produced by the applicant / judgment debtor that he has not received the suit summons, it can be inferred that the suit summons was duly served on the defendant and despite service of the same, the applicant / judgment debtor chose not to defend the suit on merits.

6. Sufficient cause will have to be shown for condoning the delay when the delay is an inordinate one. Vague reasons cannot be given by the applicant to seek condonation of such an inordinate delay. In the instant case, the delay is 1625 days. The *ex-parte* judgment and decree was passed in favour of the respondent / decree holder on 19.07.2019. No sufficient reasons have been given in the affidavit filed in support of A.No.787 of 2024 for condoning such an inordinate delay. As directed by this Court, the applicant / defendant also appeared in person today. He admits to the borrowal of a sum of Rs.35,00,000/- from the plaintiff. But, he would



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submit that since he has suffered loss on account of the movie produced by him, in which the plaintiff has acted, he is not in a position to repay the dues of the plaintiff. However, he disputes the other claims made by the plaintiff for which the plaintiff has obtained a judgment and decree on 19.07.2019.

7. This Court, after giving due consideration to the aforementioned factors, is of the considered view that no sufficient cause has been shown by the applicant / judgment debtor for condoning the inordinate delay of 1625 days in filing the application seeking to set aside the *ex-parte* judgment and decree. Therefore, A.No.787 of 2024 is dismissed. No costs.

13.03.2024

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