



A. No.6240 of 2023

A. No.6240 of 2023
in
C.S. No.258 of 2020
and
E.P. No.35 of 2023

ABDUL QUDDHOSE, J.

1. M.R. Vidhyasagar
2. Datasolve Analytics Pvt. Ltd. .. Applicants
vs
E-Merge Tech Global Services P. Ltd. .. Respondent

This application has been filed seeking to set aside the exparte decree dated 15.12.2021 passed in C.S. No.258 of 2020.

2. Earlier an application viz., A. No.3807 of 2023 was filed by the very same applicants / defendants seeking to condone the delay of 462 days in filing the application seeking to set aside the exparte decree passed in C.S. No.258 of 2020. The respondent / plaintiff had also contested the said application and a counter was also filed. After giving due consideration to the counter affidavit filed by the respondent / plaintiff in A. No.3807 of 2023, this Court had passed the final order on 04.10.2023 in A. No.3807 of 2023 allowing the said application on



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condition that the applicants / defendants, deposit to the credit of this suit a sum of Rs.10,00,000/- on or before dated 31.10.2023. The applicants / defendants have complied with the said condition by depositing a sum of Rs.10,00,000/- to the credit of the suit on or before 31.10.2023 and accordingly A. No.3807 of 2023 came to be allowed. This application (A. No.6240 of 2023) is the continuation of the earlier application viz., A. 3807 of 2023 and this application has been filed seeking to set aside the exparte decree.

3. A common affidavit was filed by the applicants / defendants for both applications viz., A. No.3807 of 2023 and A. No.6240 of 2023. By a detailed order on 04.10.2023, after giving due consideration to the objections raised by the respondent / plaintiff in A. No.3807 of 2023, a conditional order was passed by this Court directing the applicants / defendants to deposit a sum of Rs.10,00,000/- to the credit of the suit on or before 31.10.2023 which was also complied with by the applicants / defendants. Since the suit claim is for a sum of Rs.2,01,08,000/-, but the exparte judgement and decree was passed in favour of the respondent / plaintiff only for a sum of Rs.96,51,264/- together with interests and



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costs. As seen from the affidavit filed in support of this application, the applicants / defendants have categorically denied their liability to pay the suit claim. The applicants/ defendants have also deposited a sum of Rs.10,00,000/- to the credit of the suit. The contentions of the defendants can be adjudicated only after trial. Since a sum of Rs.10,00,000/- is already lying to the credit of this suit and the defendants have disputed their liability to the plaintiff and this application being a consequential application to A. No.3807 of 2023, this Court is inclined to allow this application.

4. The very same counter that was filed in A. No.3807 of 2023, which was duly considered by this Court has also been filed in this application as well.

5. For the foregoing reasons, this Court is inclined to allow this application. Accordingly, this application is allowed and the exparte decree dated 15.12.2021 passed in C.S. No.258 of 2020 is hereby set aside. However, it is made clear that the interim injunction granted in favour of the respondent / plaintiff in O.A. No.474 of 2020, which was



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made absolute by this Court on 26.03.2021 shall continue until further orders of this Court.

6. In view of the orders passed in this application, the Execution Petition filed by the respondent / plaintiff against the applicants / defendants is closed.

7. Post the matter on **14.03.2024**.

26.02.2024

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