



A.No.4833 of 2024
in C.S.No.609 of 2013

A.A.NAKKIRAN, J.

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This application has been filed to pass an order condoning the delay of 292 days in filing the application to set aside the exparte decree dated 20.07.2023.

2. No representation for the respondents 1 to 3.

3. Learned counsel for the applicant submitted that it is seen that the matter was listed on 11.02.2022 and 14.07.2022, on which date, this applicant has been set exparte. Due to inadvertence of the Registry, the name of the applicant's counsel, has been omitted to be printed in the cause list due to which the said counsel was not appeared before this court and hence this court has set the applicant exparte. Finally the suit was decreed as prayed for by the plaintiff on 20.07.2023 and On knowing the said facts, the applicant has immediately filed an application to set aside the exparte decree. If the delay is not condoned, the applicant would be put to irreparable injury. Therefore, he prays to allow this application.

4. Learned counsel for the 5th respondent/4th defendant has strongly opposed to allow this application stating that the applicant is wantonly and

<https://www.mhco.nic.in/judis> willingly absented himself, from participating in the litigation, within the



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gv

stipulated time. He is prohibited in seeking another chance to participate in the proceedings only after the application to pass final decree is pending before this court. The delay of 331 days in filing this application has not been properly explained and the applicant was waiting for the preliminary decree to be passed, now has filed this application to set aside, very belatedly only with an intention to drag on the proceedings. The reason adduced, by the party for his non-appearance is not acceptable. He further submitted that even now the applicant has not filed his written statement with the application to condone the delay in filing the written statement. Hence, he prays to dismiss the application.

5. Heard both sides.

6. Though the 5th respondent/4th defendant has strongly opposed to allow this application, being satisfied with the reasons stated in the affidavit filed in support of this application, in the interest of justice and in order to give an opportunity to contest the case, this application is allowed, on payment of cost of Rs.5000/- (Rupees Five Thousand only) to the 5th respondent on or before 20.11.2024.

7. Post on 20.11.2024 for filing counter.

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12.11.2024