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A.No.3196 of 2024
in
C.S.(Comm. Div.)No.310 of 2023

SENTHILKUMAR RAMAMOORTHY,J

By this application, the sole defendant seeks to set aside the ex parte decree dated 30.04.2024. In the affidavit in support of this application, it is stated that notice in the interlocutory application was served on the applicant/defendant on 11.01.2024 and that the applicant concentrated on contesting the interlocutory application between February and March 2024. It is also stated that the written statement was filed on 26.03.2024. Since there were defects in the written statement, it is stated that such written statement was returned for rectification thereof.

2. Learned counsel for the applicant/defendant submits that the defendant was set ex parte in these circumstances on 24.04.2024 and that after ex parte evidence was recorded, an ex parte decree came to be issued on 30.04.2024.



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3. In response to these contentions, learned counsel for the respondent/plaintiff submits that suit summons was served on the defendant on 11.01.2024. He also submits that the written statement was filed with defects and that no explanation is provided for not re-presenting such written statement in time. Since this is a commercial suit, learned counsel contends that the application is liable to be rejected.

4. The admitted position is that the suit summons was served on the defendant on 11.01.2024 and a copy of the written statement was served on learned counsel for the plaintiff on 26.03.2024. It appears that the said written statement was returned on 23.04.2024 by the Registry for the rectification of the defects. In those circumstances, the defendant was set ex parte on 24.04.2024 and the suit was decreed on 30.04.2024.

5. Undoubtedly, as contended by learned counsel for the plaintiff, one of the objects and purposes of the Commercial Courts Act is expeditious disposal. Nonetheless, being a Court of first instance, it is unjust to shut out



the defendant in these circumstances given that just disposal is the overarching object. Consequently, subject to payment of costs of Rs.25,000/- (Rupees Twenty five thousand only) to the plaintiff, the ex parte decree dated 30.04.2024 is set aside.

19.08.2024
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