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A.No.5668 of 2023 in C.S.No.363 of 2020

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N.SATHISH KUMAR, J.

This application has been filed to condone delay of 290 days in filing an application to set aside the exparte judgment and decree dated 15.09.2022 in C.S.No.363 of 2020.

2. The learned counsel appearing for the applicant submitted that during the pandemic period, the applicant had shifted to his native place and at that time notice sent by the Court had not been served on the applicant and returned as unclaimed and an exparte order had been originally passed which resulted in exparte decree on 15.09.2022. Hence, the present application has been filed to set aside the exparte decree.

3. In the counter, it is the stand of the respondent that despite service of notice, the applicant has not chosen to appear before this Court nor filed his written statement. Hence, it is his contention that there is no sufficient reason given in the application to condone the delay.

4. I have perused entire materials. The adjudications in the suit indicate that the applicant had been set exparte on the basis of the publication effected. The records do not indicate that notice has been served personally to the applicant. Notice has been sent during the



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pandemic period. The suit was filed in the year 2020 and the applicant has been set exparte in the month of April, 2022 during the pandemic period and the notice sent to the applicant has been returned as unclaimed. Thereafter, publication has been Ordered and exparte judgment has been passed against the applicant.

3. Considering all these aspects and in order to give a fair opportunity to the applicant to contest the suit on merits and the written statement has also been filed, this Court is inclined to condone the delay in filing an application to set aside the exparte Order, this application is Ordered.

07.03.2024

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