



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 24.03.2025

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.453 of 2025
in C.S.No.258 of 2020

M R Vidhyasagar
Ezhil Flat, Ground Floor, No. 76, Audco Nagar, 1st Cross Street,
Kattupakkam, Chennai and another ... Applicants
-VS-

E Merge Tech Global Services Pvt Ltd,
Rep by its Authorized Signatory R Venkatesh
Ezhil Flat, Ground Floor, No. 76, Audco Nagar,
1st Cross Street, Kattupakkam, Chennai ... Respondent

For Applicants : Mr.B.Deepak Narayanan
For Respondent : Mr.Adarsh Subramaniam
for M/s.Sarvabhavman Associates

ORDER

By this application, the defendants seek to set aside *ex parte* decree dated 24.04.2024. Upon effecting substituted service of suit summons by publication, the suit was initially decreed *ex parte* on 15.12.2021. By order dated 26.02.2024 in A.No.6240 of 2023, the *ex parte* decree was set aside



upon application by the defendants.

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2. At the hearing on 02.04.2024, upon noticing that the written statement had not been filed, the defendants were set *ex parte* once again. Thereafter, the suit was decreed on 24.04.2024 after recording *ex parte* evidence. The present application has been filed in these facts and circumstances.

3. Learned counsel for the defendants submits that copies of the plaint and documents relied upon therein were not served on the defendants in spite of the defendants requesting for the same on 19.04.2023 and 28.02.2024. Learned counsel submits that all relevant papers were served on the defendants only on 18.03.2024, and that the written statement was presented soon thereafter on or about 16.04.2024. Meanwhile, learned counsel submits that the defendants were set *ex parte* on 02.04.2024 and that the suit was decreed on 24.04.2024 after recording *ex parte* evidence on 22.04.2024. By referring briefly to the nature of the suit, learned counsel submits that the suit relates to alleged breach of confidentiality and alleged



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solicitation of clients of the plaintiff by the defendants. He submits that the defendants have a strong defence to the suit claims.

4. In response, learned counsel for the plaintiff submits that suit summons was served by publication after the plaintiff was permitted to effect substituted service. He further submits that this is the second occasion when an *ex parte* decree was issued on account of the defendants' negligence in defending the suit. Therefore, he submits that, at a minimum, stringent terms should be imposed.

5. The defendants have placed on record letters dated 19.04.2023 and 28.02.2024, which indicate that the defendants had not received a copy of the plaint and documents relied upon therein. In fact, the counter of the plaintiff also indicates that such documents were served on the defendants on 18.03.2024. In these circumstances, the applicants / defendants have made out a case to set aside the *ex parte* decree. Nonetheless, it should be noted that this is the second time that the defendants were set *ex parte* before an *ex parte* decree was issued against the defendants. It is also noticeable



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that the defendants did not follow up more frequently after filing the application to set aside the *ex parte* decree on 19.04.2023. Therefore, the defendants are liable to pay costs for causing considerable delay in the prosecution of the suit. The defendants had earlier deposited Rs.10,00,000/- to the credit of the suit.

6. For reasons aforesaid, the *ex parte* decree dated 24.04.2024 is set aside on condition that the defendants pay a sum of Rs.50,000/- as costs to the plaintiff. This amount shall be paid within **two weeks** from the date of receipt of a copy of this order. In view of the *ex parte* decree being set aside, the benefit of the interim order in O.A.No.474 of 2020 shall once again enure to the benefit of the plaintiff until further orders.

24.03.2025
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SENTHILKUMAR RAMAMOORTHY,J

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