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A.No.2526 of 2026
in
C.S No.14 of 2025

MASTER
29.10.2026

ORDER

1. This is an application filed by the applicant/defendant to condone the delay of 182 days in filing the application to set aside the ex-parte decree dated 29.07.2025 in C.S.No.14 of 2025.

2. The case of the applicant as stated in the supporting affidavit filed along with application is that he had filed an application seeking leave to defend the above suit in SR No.32847 of 2025, but the said application was returned by the Registry for compliance of certain defects. It is further stated that the applicant's counsel could not take back the returned papers and re-present the same within the stipulated time. Meanwhile, the suit was listed before this court and the ex-parte decree was passed against the applicant on 29.07.2025, as the applicant have been facing several vexatious litigations filed against him by the respondents herein he was not able to instruct his counsel to re-present the application.

3. The respondent filed his counter stating that the applicant/defendant has entered his appearance on 10.02.2025 and has been served with summons for Judgment on 12.02.2025, the applicant ought to have filed leave to defend application within 10 days i.e. 21.02.2025 but he neither filed the leave to defend application on time nor got it numbered. It is further contended that the applicant has not stated any reason for not

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taking the returned case papers and also has not given any proper explanation for each and every day of delay and so this application is liable to be dismissed.

4. Heard both side counsel and perused the materials on record. Both the applicant and respondents have averred many facts in the affidavit which are related to the merits of the summary sit and is beyond the scope of the present application which is only filed to condone the delay of 182 days in filing the application to set aside the ex-parte decree and so the same is not discussed in this application.

5. Now the point for consideration is whether the delay of 182 days in filing the application to set aside the ex-parte decree dated 29.07.2025 is to be condoned or not?

6. It is settled law that the length of delay is not by itself a decisive factor and it is acceptability of the explanation offered by the applicant to be considered for condoning the delay. In this regard, this court obliges to record the decision rendered by his Lordship Hon'ble Mr.Justice K.T.Thomas, in ***N.Balakrishnan v. Krishnamoorthy***, **(1998) 7 SCC 122: 1999-1-L.W.739** in which it has been held that a lethargic litigant cannot be allowed to leisurely choose his own time in preferring application. The relevant excerpt would run thus:

> *"Rules of limitation are not meant to destroy the right parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each*

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remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae ut sit finis Mum (it is in the interest of the state that there be an end to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time."

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7. The explanation for the delay, rather than its mere duration is a relevant criterion for exercising discretion under section 5 of the Limitation Act. In the present case the explanation offered primarily relates to the alleged inability of the counsel to take back the returned application filed for leave to defend and the applicant has not spelt out any reason for the delay of 182 days in filing the set aside application. Even assuming such application for leave to defend has been filed and returned the applicant has not furnished the date of filing the application, the date on which it was returned and the steps taken by his counsel to get it re-presented and numbered and the reason which prevented him or his counsel in following the case. Similarly, the applicant has also not disclosed when he came to know about the decree, what steps has been taken by him after such knowledge and as to why he has not taken any steps to file set aside application within the stipulated time as mandated under the statute.

8. On the facts stated by the applicant in his affidavit filed in support of the application, he has failed to provide any satisfactory explanation for the delay in filing the application to set aside the ex-parte decree. In the absence of specific particulars regarding the date of knowledge of the decree and the steps taken by the applicant to pursue the suit, this court is of opinion that the applicant failed to make out sufficient cause satisfying this court to condone the delay of 182 days and thus concludes that there are no merits in this application.

In the result, this application is dismissed. No cost.

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