



A.No.6485 of 2025
in
A.No.4660 of 2025
in
C.S.No.232 of 2009

MASTER
19.02.2026

ORDER

1. This is an application filed by the applicant/defendant seeking permission of the court to let in oral and documentary evidence in A.No.4660 of 2025 which is filed to condone the delay of 3,857 days in filing the application to set aside the exparte decree dated 08.09.2014.

2. The counsel for the applicant submitted that the applicant came to know about the exparte decree only on 04.03.2025 on affixture of proclamation of sale papers and the reason that he was not aware of the suit proceedings was in view of the applicant's erstwhile counsel Mr.S.D.Balaji who passed away and so he has filed A.No.4660 of 2025 to condone the delay of 3,857 days in filing the set aside application. In the said application the respondent/plaintiff has filed his counter stating that the applicant had participated in the execution proceedings by filing counter and that the applicant was aware of the execution proceedings as early as 2017 and so the condone delay application is not maintainable. In the said circumstances, it is necessary for the applicant to prove his case that he was not aware of the suit proceedings and the execution proceedings and that he never appointed any advocate on his behalf in the EP proceedings and has filed counter in the said EP, by way of letting in oral and documentary evidence in A.No.4660 of 2025.

3. Per contra, the learned counsel for the respondent/plaintiff submitted that already the applicant has filed condone delay application with untenable grounds and the



averment that the applicant's erstwhile counsel Late.Mr.S.D.Balaji did not inform the applicant about the case and so the applicant was not aware of the proceedings is a bald and self-serving statement unsupported by any credible material, even otherwise negligence or inaction on the part of the counsel cannot be a ground to condone such enormous and deliberate delay as settled by the Hon'ble Supreme Court in number of cases and so this application has to be dismissed.

4. Perused the available materials before this court and heard the submissions made by both side counsels. A.No.4660 of 2025 is filed by the applicant/defendant to condone the delay of 3,857 days in filing the application to set aside the exparte decree dated 08.09.2014. It is the case of the applicant that he was not aware of the suit proceedings because of the death of his erstwhile counsel Late.Mr.S.D.Balaji and he came to know about the exparte decree dated 08.09.2014 was passed against him, on 04.03.2025 when proclamation of sale papers were affixed. When it is the contention of the respondent/plaintiff that the applicant had knowledge of the execution proceedings as early as 2017 and he has contested the same by way of filing counter and so the condone delay application must be dismissed, an opportunity is to be given to the applicant/defendant to disprove the contention of the respondent. Furthermore, when there is inordinate delay of 3,857 days in filing the set aside application it would be better to give an opportunity to the applicant to prove his contention by way of letting in oral and documentary evidence which would also help this court to adjudicate upon the application in a more appropriate manner. The Judgment relied on by the learned counsel for the respondent in support of his contention that negligence or inaction on the part of counsel cannot be a ground to condone the inordinate delay cannot be decided in this application and the same can only be decided in A.No.4660 of 2025.

5. In view of the above, this application is allowed. No cost. This court also takes note of the Order dated 06.02.2026 passed by our Hon'ble High Court in



C.R.P.No.5568 of 2022 and C.M.P.No.27917 of 2025 wherein direction is given to this Court to dispose of A.No.4660 of 2025 along with connected applications listing the matter on day to day basis and shall be disposed off by the end of February 2026. In view of the said Order of Hon'ble High Court this court while allowing this application on merits is inclined to pass conditional order that the applicant is directed to let in his evidence on 20.02.2026 after serving copies to the respondent counsel with further direction to the respondent counsel to cross examine the witness on the same day of recording his chief examination. The applicant's failure to comply with the above said direction would lead to closure of his side evidence.

MASTER