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OSA No. 323 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-10-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

OSA No. 323 of 2025

1. Joe Micheal Praveen

Appellant(s)

Vs

1. Apsara Reddy
D/o.Late Mr.Ramesh Reddy,
No.5/121C, Dr.Seshadri Avenue,
Injambakkam, Chennai 600 012.

2.Google LLC, D/B/A Youtube,
901, Cherry Ave, San Bruno,
CA 94066.,
To be served through their Local
contact address in India at Google
LLC-India Liaison Office, Represented
by its, Resident Grievance Officer for
YouTube, Unit No.26, The Executive
Centre, Level 8, DLF Centre, Sansad
Marg, Connaughst Place,
New Delhi 110 001.

Respondent(s)



PRAYER

To set aside the order dated 27.03.2024 made in A.No.1635/2024 in CS.No.127 of 2022 on the file of this Court in the interest of justice.

For Appellant(s): Mr.S.Kalyana Raman
For Mr.R.S.Mangala Kumar

For Respondent(s): Mr.V.S.Senthil Kumar For R1

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

The present Original Side Appeal has been instituted to assail the order dated 27.03.2024 passed in Application No.1635 of 2024 in CS.No.127 of 2022.

2. The appellant is the 1st defendant in the civil suit. The 1st respondent herein has instituted a suit claiming damages for publishing and circulating defamatory contents on YouTube/Social media. Since the contents uploaded through YouTube damaged the image and reputation of the 1st respondent, the suit was instituted. Notice was issued. Admittedly, the appellant received notice and engaged a counsel to represent the suit on his behalf. Vakalat came to be filed. The appellant/defendant had been set ex-parte on



09.10.2023, due to the non-appearance of the learned counsel representing the case of the appellant before the Trial Court. Consequently, an ex-parte

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decree came to be passed on 04.01.2024. To set aside the ex-parte decree, the appellant filed Application No.1635 of 2024. The application was adjudicated and dismissed by the Trial Court vide order dated 27.03.2024. Thus, the present Original Side Appeal came to be instituted.

3. The learned counsel for the appellant would mainly contend that there was no intentional non-appearance on the part of the appellant /defendant. He engaged a counsel, who in turn was representing the case periodically. On the particular day, the learned counsel for the appellant/defendant failed to appear before the Trial Court, which resulted in passing of the ex-parte decree. The appellant filed an application to set aside the ex-parte decree along with a written statement in the suit. Therefore, the Trial Court ought to have considered the said application by providing an opportunity to the appellant to defend his case on merits.

4. The learned counsel for the 1st respondent/plaintiff would oppose by



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stating that the Trial Court had given more than one opportunity to the appellant to defend his case. Since the appellant as well as the counsel representing the case of the appellant failed to appear on more than one occasion, the Trial Court passed the ex-parte decree. That apart, the appellant filed a false affidavit in the application stating that he has not received summons. Since the Court found that the said statement in the sworn affidavit is incorrect, the application came to be dismissed. Therefore, the present appeal also deserves to be dismissed.

5. This Court has considered the rival submissions made between the parties to the lis on hand.

6. The Trial Court, while considering the pleadings raised between the parties, made a finding that the conduct of the appellant, engaging a lawyer and thereafter remaining ex-parte, would indicate that he was watching the proceedings carefully. That apart, the reason stated in the affidavit is found to be contradictory. Thus, he is not entitled to seek the indulgence of the Court to set aside the ex-parte decree. Though the Trial Court has made a finding that



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in normal circumstances, the Court would take a lenient view in the matter of setting aside the ex-parte decree. However, in the present case, since the appellant filed a false affidavit, the application praying to set aside the ex-parte decree has been dismissed.

7. Before this Court, the learned counsel for the appellant would admit that the statement in the sworn affidavit is incorrect. However, it was not intentionally made by the appellant, and the statement was made as per the legal advise given by his lawyer. Therefore, he cannot be penalized for the wrong pleadings made in the affidavit regarding service of summons in the suit.

8. This Court is of the considered view that the service of summons/notice is a matter of record, which can be verified by the Court, irrespective of the statement made by either of the parties. That apart, the learned counsel representing the case of the appellant before the Trial Court failed to appear on more than one occasion, resulting in passing of an ex-parte decree. The mistake or error committed by a lawyer need not affect the



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interest of the litigants or the merits involved in the case. This exactly is the reason why the Courts normally take a lenient view while setting aside the ex-parte decree passed. However, the intention of the parties allowing the Court to pass an ex-parte decree are also to be taken into consideration. Only in exceptional cases where the conduct of the parties is totally indifferent, ex-parte decrees are normally passed. In the present case, the suit has been instituted, claiming damages with an allegation that the appellant uploaded the video contents on YouTube/Social media. Therefore, the appellant was defending the case through his advocate. Since the learned counsel failed to appear on more than one occasion, the Trial Court passed an ex-parte decree.

9. The learned counsel for the appellant made a submission that in the event of providing an opportunity to the appellant, he will not seek any unnecessary adjournment or make any attempt to prolong or protract the suit proceedings. Further, it is made clear that he will co-operate for earlier disposal of the suit in all respects. Though the learned counsel for the appellant made a request to fix a time limit for the disposal of the suit, it would



be inappropriate for this Court to fix such a time limit, as the cases are to be disposed of by the Court concerned. However, the Trial Court is requested to expedite the suit.

10. In view of the facts and circumstances, the order impugned dated 27.03.2024 made in A.No.1635 of 2024 in CS.No.127 of 2022 is set aside and the suit in CS.No.127 of 2022 is restored. Consequently, the Original Side Appeal stands allowed. No costs. The connected miscellaneous petitions, if any, are closed.

(S.M.SUBRAMANIAM J.)(MOHAMMED SHAFFIQ J.)

07-10-2025

gd

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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1.Apsara Reddy

D/o.Late Mr.Ramesh Reddy,
No.5/121C, Dr.Seshadri Avenue,
Ijanambakkam, Chennai 600 012.

2.Google Llc, D/b/a Youtube,
901, Cherry Ave, San Bruno, CA
94066., To be served through their
Local contact address in India at
Google LLC-India Liaison Office,
Represented by its, Resident
Grievance Officer for YouTube, Unit
No.26, The Executive Centre, Level 8,
DLF Centre, Sansad Marg,
Connaughst Place, New Delhi 110
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