DENY; and Opinion Filed February 5, 2016.

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-15-01527-CV

IN RE RALSTON OUTDOOR ADVERTISING LTD, Relator

Original Proceeding from the County Court at Law No. 5
Dallas County, Texas
Trial Court Cause No. CC-15-04586-E

MEMORANDUM OPINION

Before Justices Lang, Fillmore, and Brown
Opinion by Justice Fillmore

In this petition for writ of mandamus, relator Ralston Outdoor Advertising Ltd. requests that the Court order the trial court to vacate its order denying relator's motion for default judgment. Ralston argues the trial court abused its discretion in denying default judgment on the ground that Ralston's amended petition did not state a basis for service on the Texas Secretary of State. Ralston contends that the trial court erred in reaching this conclusion because the record as a whole demonstrated that service on the secretary of state was proper. We deny the petition.

Ordinarily, to obtain mandamus relief, a relator must show both that the trial court has clearly abused its discretion and that relator has no adequate appellate remedy. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding). "An appellate remedy is 'adequate' when any benefits to mandamus review are outweighed by the detriments." *Id*. at 136. The supreme court has explained:

> Mandamus review of significant rulings in exceptional cases may be essential to preserve important substantive and procedural rights from impairment or loss, allow the appellate courts to give needed and helpful direction to the law that would otherwise prove elusive in appeals from final judgments, and spare private parties and the public the time and money utterly wasted enduring eventual reversal of improperly conducted proceedings.

Id.

The denial of a default judgment may be reviewed on appeal from the final judgment in the case. *Oliphant Fin., LLC v. Galaviz,* 299 S.W.3d 829, 834 (Tex. App.—Dallas 2009, no pet.) ("We consider a trial court's denial of a motion for default judgment when the denial is challenged in an appeal from a final judgment or order."); *Crown Asset Mgmt., L.L.C. v. Loring*, 294 S.W.3d 841, 843 (Tex. App.—Dallas 2009, pet. denied) (en banc) ("We may consider the trial court's denial of a motion for default judgment when, as here, the denial is challenged in an appeal from a final judgment or order."). For that reason, Texas courts have long held that a plaintiff denied a default judgment has an adequate appellate remedy. *See Jackson v. McKinsey*, 12 S.W.2d 1044, 1045 (Tex. Civ. App.—Fort Worth 1928, no writ) ("We think that the relator has an adequate remedy at law, and that the petition for mandamus should be denied; and it is so ordered."). On the record before the Court, we cannot conclude that appeal will not provide an adequate remedy for review of Ralston's complaint.

We deny the petition.

/Robert M. Fillmore/
ROBERT M. FILLMORE
JUSTICE

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