UPLOADED ON 19.02.2026

IN THE COURT OF PRINCIPAL COMMERCIAL COURT,
EGMORE, CHENNAI

Present: Thiru. S.GANAPATHISAMY, B.A.B.L.,
Principal Judge

Dated this 19th day of February 2026, Thursday

I.A.No.1 / 2025 in C.O.S. No.227 / 2025

1. M/s. All Day Fresh Supermarket,
Rep. By its proprietor
Mr.Ganesh,
No.31, Railway Colony, 3rd Street,
Nelson ManickkamRoad,
Aminjikarai,
Chennai – 600 029.

2. Mr.Ganesh
S/o Venkatesh. H
residing at
No.22,2nd Cross Street,
Muthiyandi Colony,
Aminjikarai,
Chennai – 600 029. Petitioners/ Defendants

-Versus-

M/s. Canara Bank
(Saligramam Branch),
rep by its Manager,

Authorized Signatory,
Having office at Canara Bank,
No.9/A/1, Kumaran Colony Main Road,
Vadapalani,
Chennai – 600 026. . Respondent/Plaintiff

This Petition coming for final hearing today (19.02.2026) before me in the presence of M/s. Hussain Mueen Farooq, Imran.A, Suhail Bhat J.K. A.Kalimuthu of the Legal Arroneys and Barristers, learned counsel for the petitioners/defendant sand M/s. J. Jeya Sabare Eswaran, B. Padma, R. Ganesh, R, Lakshmi, learned counsels for the respondent/plaintiff and upon perusing the documents and hearing the arguments of both sides and having stood over for consideration till this day and this court delivers the follows:-

ORDER

1. The Petitioners/Defendants have come forward with this application under Order IX Rule 13 read with section 151 of the Civil Procedure Code to set exparte the decree dated 29.07.2025 on the following grounds. The suit was filed on 05.04.2025 and after issuance of summons, this Court fixed next hearing date on 16.07.2025 and the plaintiff side evidence was closed with examination of PW1 and hearing of arguments on 16.07.2025. This Court reserved the suit for judgment on 29.07.2025. On receipt of summons, the defendants engaged a counsel who assured to make his presence before the Court on 08.07.2025 and it is not required for defendants to make their personal appearance in civil cases and on the advise of the lawyer, the defendants did not appear in person before the Court under the impression

that their lawyer would have appeared for the defendants. When the defendants approached their lawyer on 02.08.2025, they were informed that lawyer could not appear before the Court due to his personal exigencies and the defendants were set exparte and the exparte decree was passed on 29.07.2025. Only on the assurance of his lawyer, the defendants did not appear before this Court. Unless the suit is heard on merits, it will cause miscarriage of justice to the defendants. The plaintiff has filed the suit based on a unregistered document through unauthorized person and the defendants should be given an opportunity of hearing.

2. The respondent/plaintiff have resisted this application on the grounds that even after service of summons on the defendants, they failed to appear on 08.07.2025 and the defendants have not made out any sufficient cause to set aside the exparte decree and the reason that only on the assurance of their counsel alone, they did not appear before this Court is false. The respondent/plaintiff further stated that the petitioners have neither disclosed the name of their counsel nor filed any supporting affidavitg from the counsel to substantiate their claim.

3. Heard Both Side.

4. The learned counsel for the petitioners/defendants submitted that within 3 months from the institution of the suit, this court passed a decree in a hasty manner. The contention of the learned counsel cannot be countenanced for the reason that either an advocate or litigant cannot expect the Court to keep the matter pending for

decades together. If such a contention is accepted, the very purpose of enactment of Commercial Courts Act will be defeated. It is not under dispute that summons was duly served on the defendants on 20.06.2025. They failed to appear before this Court on 08.07.2025. After recording of evidence on 16.07.2025, the decree was passed on 29.07.2025. Though the defendants have filed this application immediately on 06.08.2025 within the period of limitation, the defendants failed to file their written statement.

5. The learned counsel for the defendants submitted that since the suit was not restored, the defendants could not file written statement. In Commercial Suits, written statements should be filed within 30 days of service of summons and extension of time should not be extended beyond 120 days. In spite of service of summons on the defendants on 20.06.2025, the defendants have not chosen to file their written statement along with this application. Even if it is assumed that the ex parte decree is set aside, the defendants cannot be permitted to file their written statement. But at the same time, it cannot be gainsaid that without filing written statement, the defendants can be permitted to partake in proceedings and cross examine the witness based on the pleadings found in plaint and not based on defence.

6. We have to see whether the defendants have specified any ground to cross examine the PW1 based on the plaint averments in the affidavit filed by them in support of this application. The defendants have mentioned in the affidavit that the plaintiff has filed the suit based on the unregistered document through unauthorized

person. The plaint was presented through his Manager who is authorized signatory. Therefore the question of presentation of plaint by unauthorized person does not arise and the documents filed along with plaint do not require registration. Though the petitioners have filed this application within the time, there is no sufficient reason to set aside the ex parte decree. They have not also filed their written statement along with this application. The petition is devoid of mertis. This petition is dismissed. No Cost.

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

Dictated by me to the Steno-Typist, transcribed and typed by him in the computer, corrected and pronounced by me in the open court, this 19th day of February 2026.

GANAPATHI SAMY

Digitally signed by GANAPATHI SAMY
Date: 2026.02.19 18:20:48 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Order in
I.A.No. 1 of 2025
in
C.O.S.No. 227 /2025
Date: 19.02.2026

Principal Commercial Court,
Egmore, Chennai.