UPLOADED ON 07.04.2026

IN THE COURT OF PRINCIPAL COMMERCIAL COURT,
EGMORE, CHENNAI

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

Dated this 7th day of April 2026, Tuesday

I.A.No. 3 / 2025 in C.O.S. No.313 / 2022

R.Machandra Rao,
S/o. B.N. Raja Rao,
No.14/7, Jayaraman Nagar,
4th MainRoad,Thanigai Nagar,
Kolathur, Chennai – 600 099. Petitioner / 2nd defendant

Vs

1. M/s. Sri Janyaa Constructions,
Partnership Firm,
Represented by its Partner,
Mr.R.Sathish,
S/o. K.Ranganathan,
Polit No.81, 6th Street,
Venus Nagar,
Kolathur,Chennai – 600 099. ….Petitioner/ Defendant

2. R.Sathish,
S/o. K.Ranganathan,
Polit No.81, 6th Street,
Venus Nagar,
Kolathur,Chennai – 600 099.

….. Respondents 1 & 2 / Plaintiffs

3. M/s. Prescot Production Private Limited,
Represented by its Liquidator,
(as per plaint represented by its Additional Director
M.Venkateswara Rao)
No.190, Tiny Sector,
SIDCO Industrial Estate,
Ambattur, Chennai – 600 098.

4. M.Venkateswara Rao,
S/o. R.Machendra Rao.

5. V.Rajeswari,
W/o. M.Venkateswara Rao,
4 & 5 together residing at (as per cause title)
No.14/7, Jayaraman Nagar,
4th Main Road, Thanigai Nagar,
Kilathur, Chennai – 600 099.

6. Jaya Shree Rajesh Jai Govindam,
Kodanad P.O, Perumbavoor,
Ernakulam District,
Kerala – 683 544.

….Respondents 3 to 6 / Defendant 1, 3, 4 & 5

This Petition coming on this day for final hearing on 07.03.2026 before me in the presence of M/s. S. Michael, K.S.Harish, N.Lingeshari and R.Santhosh learned counsels for petitioner/2nd defendant; of M/s. A.H. Srikanth, S. Sivakumar, S.Sathiyaraj and K.R.N.Pranav learned counsels for the respondents 1 and 2/ plaintiffs and upon perusing the documents and hearing the arguments of Respondenets 1 and 2 and on perusing the written arguments of petitioner/2nd defendant and having stood over for consideration till this day, this court today

delivers the following :

ORDER

1. The Petitioner/2nd defendant has come forward with this application under Section 5 of Limitation Act for condonation of delay of 707 days in taking steps to set aside the exparte decree dated 18.04.2023 inter alia alleging that defendants 1 to 4 have not received any notice or summons from the Court and the 2nd defendant came to know about the exparte decree only on 06.03.2025 when the notice of attachment was affixed in the property situated at Senthil Nagar, Kolathur and when he verified the Court records with his counsel, he came to know that no proper service was effected on him. He has further stated in the affidavit that he has vacated the premises at Kolathur in 2019 and shifted to Bangalore. Even before the institution of the suit, the 1st defendant company was ordered for corporate insolvency by National Company Law Tribunal on 23.08.2019. He has further stated that in spite of having merits in the case, the 2nd defendant is not able to file the written statement for want of plaint and documents and though there was delay of 18 days in taking steps from the date of knowledge of exparte decree, the 2nd defendant has filed this application for condonation of 707 days and his property cannot be attached for the liability of the company in which he is not a Director.

The Averments of the Counter filed by the Respondents 1 and 2 /Plaintiffs are shortly as follows :

2. The 5th defendant representing him as a Director borrowed a sum of Rs.2,50,000/- from the plaintiff for which the 2nd defendant handed over his property documents in his personal capacity as security for debt availed by his son 5th

defendant. Only after issuance of Court notice and private notice to the last known address of the defendants, the paper publication was effected on 25.02.2022 and except 5th defendant, all other defendants were set exparte and after a gap of 707 days, he filed this application for condonation of delay of just 18 days which is not permissible. For filing written statement, the 2nd defendant would have obtained certified copies of plaint and other documents. The reason stated by the 2nd defendant for non appearance is vague. The 5th defendant contested the suit and the decree was passed on 18.04.2023. The plaintiff filed execution application and after sending of the Court notice and private notice, finally this Court ordered for substituted service in newspaper and Judgment Debtors 1 to 4 were set exparte. Since the suit property is individual property of 2nd defendant, this Court ordered to attach the property albeit the Court declined to pass decree of charge on the property in the suit. The 2nd defendant was aware of the correspondence addressed to his premises which has been let out by him and the tenants would have informed him of Court Proceedings. The date of paper publication shall be deemed to be date of knowledge of 2nd defendant. Hence the petition is liable to be dismissed.

3. When the application was taken up for enquiry on 07.03.2026, the counsel for the respondents 1 and 2 argued. There was no representation on the petitioner side. Thereafter, the learned counsel for the petitioner filed written arguments.

4. The suit was originally filed before the City Civil Court in O.S.No.5931 of 2021 and thereafter was transferred to this Court. The defendants 1 to 4 were set exparte

subsequent to the paper publication was made by the plaintiff pursuant to the orders passed by this Court. But the 5th defendant filed his written statement and contested the suit. Therefore this Court after framing necessary issues and recording evidence, pronounced judgment and passed decree on merits. When the decree is passed on merits, the 2nd defendant ought to have filed an appeal against the decree, if he feels aggrieved by the judgment and decree in the suit. Furthermore, all the notices were sent to the last known address of 2nd defendant and had the 2nd defendant shifted his residence to Bangalore, he ought to have informed the plaintiff of the change of his address. In the typed set produced by the 2nd defendant, he has raised a plea that he paid some amount by way of bank transfer to the plaintiff. Therefore, the 2nd defendant has admitted the transaction between plaintiff and 2nd defendant. Therefore, the 2nd defendant is bound to inform the plaintiff of his change of address and he cannot find fault with the plaintiff that notice was not served to the 2nd defendant. Furthermore the decree was passed on merits. The remedy available to the 2nd defendant is to prefer an appeal against the judgment and decree. The application is devoid of merits.

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

Dictated by me to the Steno-Typist, directly typed by him in the computer, corrected and pronounced by me in the open court, this 7th day of April 2026.

GANAPATHI SAMY

Digitally signed by GANAPATHI SAMY
Date: 2026.04.07 18:06:19 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Order in

I.A.No.3 of 2025

in

C.O.S.No.313 / 2022

Date: 07.04.2026

Principal Commercial Court, Egmore, Chennai.