UPLOADED ON 01.06.2026

IN THE COURT OF PRINCIPAL COMMERCIAL COURT, EGMORE, CHENNAI

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

Dated this 1st day of June 2026, Monday

I.A.No. 4 / 2026 in C.O.S. No.1100 / 2022

M/s. Shiva Texyarn Limited,
56, North Boag Road,
T. Nagar, Chennai – 600 017
Represented by its Legal Officer,
C.S. Ramakanth — Petitioner / Plaintiff

-Versus-

1. M/s. Indiana Diary Specialities Limited,
No.35, Vaibhav Industrial Estate,
Off: Sion – Trombay Road,
Denoar,
Mumbai – 400 088.

2. Mr. M.J.Irani,
No.35, Vaidbhav Industrial Estate,
Off: Sion – Trombay Road,
Denoar,
Mumbai – 400 088.

3. Mrs. Bhuma Ramanujan (Deceased)

4. Ms. Bhuma Varadarajan

5. Ms. Lavanya Varadarajan

legal heirs of T.R.Varadarajan,
all residing at
No.7, Shrinidhi,
Plot No.6,
Sai Nagar Apartment,
Sai Nagar Colony,
Opp. St. Anthony's Road,
Chember, Mumbai – 400 071. Respondents/Defendants

This Petition coming on this day for final hearing on 28.04.2026 before me in the presence of M/s. R. Ramasubramaniam Raja and A.S.Arvind, learned counsels for Petitioner/Plaintiff; Respondents 1, 2, 4 and 5 having been set exaprte and upon perusing the documents and having stood over for consideration till this day, this court today delivers the following:

ORDER

1. The Petitioner / Plaintiff has filed this application under Order IX Rule 9 read with section 151 of Code of Civil Procedure to restore the suit dismissed for default on 17.02.2026 inter alia alleging that when the case was posted on 17.02.2026 for cross examination of PW1, due to sudden ill health and severe cough and respiratory discomfort, the PW1 could not appear before this Court for cross examination although he appeared in the previous hearings on 20.01.2026 and 12.02.2026 and suit was dismissed for default in presence of his

counsel on 17.02.2026. The petitioner has further stated in the affidavit that there was no intention to protract the proceedings and there was delay in the trial in view of mismatching of certain documents which were marked on 23.10.2025 and the counsel for the plaintiff has applied for certified copies of documents and it was received only on 09.02.2026.

2. The Respondents have been set ex parte in this application.

The point for consideration in this application is :

3. Whether there is sufficient cause for non appearance of the plaintiff and to restore the suit?

4. Heard the counsel for petitioner / plaintiff.

5. The case was posted on 17.02.2026 for cross examination of PW1. In the earlier hearing on 12.02.2026, he was present and when the counsel for 4th and 5th defendants sought time for cross examination of PW1, this Court ordered them to pay cost of Rs.5,000/- to PW1 who came from Coimbatore. When the suit was taken on 17.02.2026, the cost had already been paid, but PW1 was not present. Therefore this Court dismissed the suit for default. It is stated in the affidavit that due to ill health, the PW1 could not appear before this Court. Though there is no medical records in support of such contention, as the stake in this suit is high, an opportunity should be given to the plaintiff and every lis should be decided only on merits. At the same time the plaintiff cannot be

permitted to prolong the case. The case been pending for the last 17 years longing for adjudication. Earlier, this suit was dismissed for default on 23.12.2020. Thereafter, it was restored in 2022 on the application filed by the plaintiff. It seems that it is the casual practice of the plaintiff to leave the case for dismissal and restore it. Originally this suit was filed before the Hon'ble High Court in 2010.

In the result, considering the facts and circumstances of the case, this application will be allowed on payment of cost Rs.25,000/- by the plaintiff to Chennai District Mediation Centre on or before 29.06.2026 failing which the application will stand dismissed. Call on 30.06.2026.

Dictated by me to the Steno-Typist, typed by him in the computer, corrected and pronounced by me in the open court, this 1st day of June 2026.

GANAPATHI SAMY

Digitally signed by GANAPATHI SAMY
Date: 2026.06.01 17:41:17 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Order in
I.A.No.4 of 2026
in
C.O.S.No.1100 / 2022
Date: 01.06.2026

Principal Commercial Court,
Egmore, Chennai.