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.Nos. 1 and 2 of 2026 in C.O.S. No.173 / 2025

The Oriental Insurance Company Limited,
Represented by its Regional Manager,
Claims Service Centre,
"Oriental House",
2nd floor,
No.215/115, Prakasam Salai,
Broadway, Chennai – 600 108. Petitioner/Defendant in both IAs

-Versus-

M/s. Shree Abirami Enggineering
Works Private Limited,
(Previously M/s.Shree Abirami
Enggineering Works).,
Represented by its Director,
Mr. P.Sirsabesan,
Plot No.56, Arunachalam Main Road,
Ambal Nagar,
Porur,
Chennai – 600 116. Respondent/Plaintiff in both IAs

These Petitions coming on this day for final hearing on 28.04.2026 before me in the presence of M/s. Nageswaran and Narichania, learned counsel for Petitioner/ Defendant in both petitions; of M/s. Sampathkumaar & Associates, learned counsels for the Respondent / Plaintiff in both petitions and upon perusing the documents and hearing the arguments of both sides and having stood over for consideration till this day, this court today delivers the following:

ORDER

1. The Petitioner / defendant has come forward with these applications under Section 5 of the Limitation Act and under Order IX Rule 13 of Code of Civil Procedure seeking for condonation of delay of 199 days in taking steps to set aside the ex parte decree dated 18.07.2025 inter alia alleging that the Respondent/Plaintiff had insured a transformer with the petitioner/defendant and he laid a claim for damages caused to the transformer while in transportation and the same was repudiated by the defendant on the ground of mismatching the proposal and the policy. The petitioner has further stated in the affidavit that the suit summons which was served on the defendant's office was not brought to the knowledge of the petitioner by the staff of petitioner company and it came to know about the ex parte decree only upon receipt of execution petition notice for hearing on 05.03.2025 and only after detailed enquiry, it came to light that the summons received in the company of defendant was forwarded to another department of the same company. The

petitioner has stated that it has got good defense in the case and the defendant attended pre-institution mediation meeting.

2. The Respondent/Plaintiff has resisted this application inter alia alleging that internal administrative negligence would not constitute a sufficient cause for condoning a massive delay of 199 days and in fact the defendant was not willing to settle the matter in pre-institution mediation proceedings and it was well aware of the impending litigation. The respondent has further stated that speedy disposal of the commercial case is the hall mark of special legislation and "departmental delay" or "procedural red-tape" is not a valid ground for condonation of delay and condonation of such delay would cause further delay in execution proceedings and it will cause prejudice to the respondent.

The point for consideration in these applications is

3. Whether there is sufficient cause for condonation of delay in taking steps to set aside the ex parte decree?

4. Both side heard.

5. The Respondent/Plaintiff has filed the main suit for the relief of recovery of suit claim of Rs.99,99,999/- together with interest. Suit summon was served on the defendant on 23.05.2025 and it was set ex parte on 19.06.2025. After recording evidence, an ex parte decree came to be passed on 18.07.2025 directing the defendant to pay the plaintiff a sum of Rs.67,51,182/- with interest. The defendant has admitted the service of summons in the defendant's office. It has also participated in the pre-institution mediation. It is the contention of the defendant that the summons was forwarded to other department of the same

company. Where the defendant intentionally avoided his appearance before the Court pursuant to receipt of summons, it would not have participated in the pre institution mediation. Therefore the reason that the summon was forwarded to other department and it was unattended until receipt of a notice in Execution Petition is sufficient. At the same time, the defendant cannot be permitted to procrastinate the proceedings. The suit was filed in 2025. The limitation for filing written statement has already lapsed. Even if the delay is condoned and the ex parte decree is set aside, the defendant cannot be permitted to file his written statement. The written statement filed along with these applications cannot be received. But if the exparte decree is set aside, the defendant can be permitted to cross examine PW1 based on the averments contained in the plaint and not based on the defense. Only after initiation of execution proceedings, the defendant has knocked at the doors of the Court to condone the delay and to set aside the ex parte decree. Though Government Authorities and individuals should be treated equally before Law, when the reason is sufficient, the Court can condone the delay. Acceptance of explanation furnished should be rule and refusal is an exception. When stakes are high, the explanation should not be rejected by taking a pedantic and hyper technical view of the matter causing thereby irreparable loss and injury to the party against whom the lis terminates. The Courts are required to strike a balance between legitimate rights and interest of the respective parties. At the same time, the claim of the plaintiff should be guaranteed to some extent. Therefore, this Court is of the considered opinion that the delay should be condoned upon deposit of half of the decreed amount with accrued interest till this date to the credit of COS No.173 of 2025.

In the result, these applications will be allowed on deposit of half of the decreed amount with accrued interest till this date within a period of one month failing which the applications will stand dismissed. Call on 02.07.2026.

Dictated by me to the Steno-Typist, directly 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 18:12:16 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Common Draft/ Fair Order in

I.A.Nos.1 and 2 of 2026

in

C.O.S.No.173 /2025

Date: 01.06.2026

Principal Commercial Court,
Egmore, Chennai.