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. 1 / 2026 in C.O.S. No 73 / 2024

Mr.K.Prakash Garu,
Door No.5-92-42/7,
Deavapram 2nd Line,
Near Krishna Nagar Park,
Opposite Sahithi Residency,
Behind NTR Stadium,
Guntur,
Andhra Pradesh- 522 006. Petitioner/ Defendant

-Versus-

M/s.Sisa World
Represented by its Proprietor
Mr.Ankit Bokadia,
Old No.83, New No.107, 1st Floor,
Sydenhams Road,
Opposite to My Lady's Garden,
Near Nehru Stadium,
Periyamet,
Chennai-600 003. Respondent/Plaintiff

This Petition coming on this day for final hearing on 07.04.2026 before me in the presence of M/s. G.Venkatesh, learned counsel for petitioner/ defendant; of M/s. Arunkumar Rajan and M.Suresh, 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, this court today delivers the following:

ORDER

1. The Petitioner/Defendant has come forward with this application under Section 5 of Limitation Act seeking for condonation of delay of 402 days in taking steps to set aside the ex parte decree dated 17.10.2024 inter alia alleging that only upon receipt of notice in execution proceedings, the Petitioner came to know about the ex parte decree passed by this Court without serving notice in the suit on the defendant and he was not aware of the proceedings in the suit. The petitioner has further stated that due to ill-health of the petitioner, he could not file the application to set aside the ex parte decree within the time and there was 402 days delay in taking steps and the respondent can be compensated for the inconvenience faced by the plaintiff. The petitioner has further stated that to provide an opportunity to contest the case, the defendant should be permitted to partake in the proceedings by condoning the delay of 402 days.

2. The Respondent/Plaintiff has resisted this application inter alia alleging that as the private notice sent by the registered post returned “unclaimed”, this Court passed ex parte decree on 17.10.2024 and thereafter the plaintiff issued a legal notice dated

09.12.2024 along with copy of a decree calling upon the defendant to pay the decree amount and even thereafter he has not chosen to file the petition immediately. The respondent has further stated that even in the reply notice sent by the defendant prior to the suit, he has admitted the delivery of goods sent by the plaintiff and without any sufficient reason, the defendant has filed this application to prolong the execution proceedings initiated by plaintiff /decree holder before the appropriate Court having jurisdiction.

The point for consideration in this application is

3. Whether the delay of 402 days can be condoned ?

4. Heard the counsel for the Petitioner as well as Respondent.

5. In the suit filed by the respondent/plaintiff for recovery of suit claim amount of Rs.11,10,544/- along with interest, this Court passed an ex parte decree on 17.10.2024 directing the defendant to pay the plaintiff a sum of Rs.8,59,072/- along with interest at the rate of 9% per annum from the date of plaint till the date of realization. The judgment would show that this Court partly decreed the suit with cost as narrated above. The plaintiff issued a notice before filing of the suit. The petitioner/defendant has received the legal notice and issued a reply notice. Both of the notices were produced along with plaint and have been marked on the side of plaintiff. The suit summon was sent to the same address mentioned in the notice and it is returned as “unclaimed”. The private notice taken by the plaintiff by registered post with acknowledgement due also returned unserved as “unclaimed”. When registered posts were sent to the defendant, the postal authorities have given intimation to the defendant. The endorsement made by the postal authority would

show that the defendant has avoided the service of summons in the suit. Therefore, this Court by observing the service as sufficient set the defendant ex parte and an ex parte decree was passed on 17.10.2024.

6. Therefore the reason assigned by the defendant that only upon receipt of notice in execution proceedings, he came to know about the ex parte decree is not true. Furthermore, after the ex parte decree was passed, the plaintiff issued a legal notice dated 09.12.2024 along with copy of a decree. A copy of legal notice has been produced along with counter. The defendant has rushed to set aside the ex parte decree only after the execution proceedings were initiated by the plaintiff after transmission of decree by this Court to the Executing Court for execution of decree. The petitioner has not produced any medical records to establish his ill health. Though there is no sufficient reason to condone the delay of 402 days, this Court is of the opinion to give an opportunity to the petitioner/defendant to contest the suit. At the same time, he should not be permitted to procrastinate the proceedings.

In the result, this application will be allowed on deposit of decree amount with accrued interest till this date within a period of one month failing which the application will stand dismissed. Call on 01.07.2026.

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 17:33:33 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Order in
I.A.No.1 of 2026
in
C.O.S.No. 73 /2024
Date: 01.06.2026

Principal Commercial Court,
Egmore, Chennai.