

UPLOADED ON 17.07.2026

IN THE COURT OF PRINCIPAL COMMERCIAL COURT,
EGMORE, CHENNAI

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

Dated this 17th day of July 2026, Friday

I.A.Nos. 4 of 2026 and 5 of 2026 in C.O.S. No. 262 / 2024

State Bank of India,
Represented by its Authorized Officer,
Arumbakkam Branch,
No.65, Razak Garden Road,
Arumbakkam,
Chennai – 600 106.

.... Petitioner / Defendant in both applications

- Versus -

Duverra Products Private Limited,
Represented by its Director
Mr. A.R.M.Gopinath,
Registered Office at
No.46, Razak Garden Road,
Arumbakkam,
Chennai – 600 106.

....Respondent/Plaintiff in both applications

These Petitions coming on this day for final hearing on 29.06.2026 before me in the presence of M/s.Anand, Samy and Dhruva, the learned counsels for

Petitioner/Defendant, M/s. R. Moneshaa, K.Nishanth and N.Nagendra Dhivyarajan and upon hearing the arguments of both sides and upon perusal of documents and having stood over for consideration of till this day, this court today delivers the following:

COMMON ORDER

The Petitioner/Defendant has filed IA.No.4 of 2026 under Section 5 of Limitation Act seeking for condonation of delay of 405 days in taking steps to set aside the ex parte decree. The petitioner/defendant has filed IA No.5 of 2026 under Order IX Rule 13 of Code of Civil Procedure Code to set aside the ex parte decree dated 07.01.2025 in COS No.262 of 2024.

Brief facts in affidavit filed in support of these applications are as follows:-

1. The Respondent/ Plaintiff has filed the main suit claiming a sum of Rs.47,99,271/- from the defendant along with damages and interest. This Court set the defendant ex-parte on 24.10.2024 and passed an ex parte decree on 07.01.2025. The defendant had no knowledge of either ex parte order or expert decree in the suit. It came to know about the suit only on receipt of notice in execution proceedings in EP No. 56 of 2025. Immediately it entered its appearance through its counsel before this Court. On enquiry, the petitioner came to understand that the summons in the main suit was alleged to have been served on the defendant at its office sometime in September 2024. None of its records speak of any summons being served on them. The Inward Register of State Bank of India Branch does not contain any entry as regards receipt of any summons in this regard. The entire

process of summons on the defendant was ostensibly manipulated by those with vested interest in the said matter. On enquiry into the matter, the petitioner observed some third party was set up to make it look as though the defendant received summons but deliberately failed to act.

2. Where the summons was duly served on the defendant, the defendant would have definitely defended their stance in the said matter. Petitioner does not admit any lacuna or lethargy at its end. Month of September is one of the most busiest periods for any bank financial institution. It is the period when legal audits with the quarterly reviews, statutory credit audits, other ISO certification and all other compliances are monitored and adhered to by various branches of petitioner including Petitioner's branch office. During the said period the bank and their personnel, despite being diligent being on their toes, are stretched to the limit in complying with all statutory requirements. The audit exercise entails pouring over various office papers, case papers and other correspondence documents. The Petitioner's Counsel, after filing his vakalat in the suit, applied for certified copies and obtained copies of plaint and documents. On obtaining certified copies, he advised to file written statement and sought for comments, para wise remarks of the plaint to prepare draft of written statement. On detailed discussion, the petitioner was advised to file an application to set aside ex-parte decree along with a condone delay application immediately. Therefore, the delay of 405 days should be condoned and the ex parte decree dated 07.01.2025 shall be set aside.

Averments of the counter filed by the Respondent /Plaintiff are shortly as follows.

3. The discretionary power to condone the delay is reserved for litigants who approach the court with sufficient cause and bona fide intent and not for those who remain indolent, negligent and therefore the petition is liable to be dismissed. The allegation that some third party was set up to create an impression of service of summons constitutes a direct and unsubstantiated imputation upon the due process of this Court. The petitioner has specifically challenged either issuance or mode of service of summons in the present application. The suit was instituted on 06.06.2024. Summons were duly served on the defendant on 08.10.2024. The serving officer made a clear handwritten endorsement of “served”, recording that service was effected on 08.10.2024. It is fortified by the acknowledgment of petitioner bearing seal of petitioner's Branch Office. There is lack of sufficient cause for condonation of delay. The vague reference to alleged personal difficulties is of no legal consequence.

4. The plaintiff filed a Writ Petition in WP.No.22571 of 2022 against the defendant wherein it had filed a detailed counter admitting its liability and such counter was marked in the main suit as Ex.A26. Before institution of the main suit, the plaintiff issued a legal notice dated 20.09.2023, for which the defendant issued a reply notice dated 30.10.2023. In the pre-litigation mediation initiated by the plaintiff, the defendant remained absent after issuance of several notices. After passing of ex parte decree, the plaintiff issued a notice to the defendant on 30.06.2025 calling upon the defendant to satisfy the decree amount. The defendant remained silent

and took no steps whatsoever. Only after filing of execution petition in E.P.No. 56 of 2025, the petitioner appeared through his counsel in the execution petition and has not chosen to file these applications immediately. The petitioner has filed these applications only on 12.03.2026. The explanation and sufficient cause must be satisfactory in proceedings that too in commercial suits.

The point for consideration in these applications is:

5. Whether the plaintiff has furnished sufficient cause or reason for condonation of delay of 405 days in taking steps to set aside the ex parte decree dated 07.01.2025?

Both side heard.

6. The plaintiff has filed the main suit for the relief of recovery of suit claim of Rs.47,19,271/- together with interest and damages of Rs.15,00,000/- and the cost of the suit. This Court partly decreed the suit directing the defendant to pay the plaintiff a sum of Rs.21,50,000/- with further interest at the rate of 12% per annum in addition to Rs.3,00,000/- as damages fixing two months to make payment on 07.01.2025.

7. The learned counsel for the petitioner submitted that summon was not duly served on the petitioner and the persons having vested interest manipulated as if summon was served on the petitioner and as the employees of bank were involved in attending the statutory credit audits, ISO certifications and quarterly reviews in

September 2024, they could not concentrate in other work and only on receipt of notice in Execution Proceedings initiated by the plaintiff, the defendant came to know about the ex-parte decree passed against it.

8. The learned counsel for the respondent /plaintiff submitted that the defendant failed to satisfy the mandatory test of sufficient cause and plea of non service of summons is a false ground taken by the defendant to obtain sympathy from the Court and the commercial disputes should be decided in time bound manner. The learned counsel further submitted that the discretionary power of condoning delay should not be exercised for litigants who do not approach the Court with sufficient cause. The learned counsel further submitted that the defendant has been aware of the proceedings from the very beginning of filing of Writ Petition by the plaintiff against the defendant and exchange of notices between the parties and pre institution mediation initiated by the plaintiff. The learned counsel further submitted that even after issuance of notice after passing of ex parte decree, the bank has not chosen to approach the Court immediately and it has not acted with due diligence.

9. The learned counsel for respondent has relied on umpteen number of decisions especially reported in 2011 SCC online SC 311 in Parimal Vs Veena, (2012) 5 SCC 157 in Maniben Devaraj Shah Vs Municipal Corporation of Brihan Mumbai case, (2013) 12 SCC 649 in Esha Bhattacharjee Vs Managing Committee of Raghunathpur Nafar Academy, 2019 SCC online SC 226 in SCG Contracts (India)

Private limited Vs K.S.Chamankar Infrastructure Pvt Ltd, 2019 SCC online SC 1311 Ambalal Sarabhai Enterprises Limited Vs K.S.Infrastructure and another, (2021) 6 SCC 460 in Government of Maharashtra Vs Borse Brothers Engineers and Contractors Private Limited case and submitted that test for sufficient cause to be applied is whether defendant honestly and sincerely intended to remain present when the suit was called on for hearing and did his best to do so and no premium can be given for total lethargy or utter negligence of State officers, machinery, agency, instrumentality and condonation of delay caused by such officers cannot be allowed as a matter of course by accepting plea that dismissal on ground of limitation will cause injury to public interest and lack of bonafide imputability of a party seeking condonation of delay is a significant and relevant fact.

I considered the submissions made on either side.

10. This Court has directed the defendant bank to produce the details of employees served in the bank in September and October 2024 with their specimen signatures in view of the fact that the bank has taken a plea of manipulation of records in service of summons with the assistance of persons having vested interests. The bank has directly imputed accusation either on the plaintiff or on the process serving officer or on the Court Staff. The bank has conveniently avoided blaming its own officers or employees. The bank has produced the specimen signatures and details of staff employed during the relevant period for perusal of this Court. I have verified the summons and specimen signatures of employees produced before this Court. One Karthik, who was Assistant Manager in the

relevant period, acknowledged the service of summons on 08.10.2024 by affixing his seal and signature. The comparison of signature found in the summons with the specimen signature with bare eyes would show both the signatures are one and same and it is that of Assistant Manager of Defendant Bank. The seal affixed in the summons and in the affidavit filed in support of these application is one and same. Simply because of non making of entries in inward register, the plaintiff bank cannot claim non service of summons duly on defendant and it will not entitle the defendant to cast aspersion on the Court and third parties.

11. The bank should act honestly once it acknowledged the service of summons. It must have set forth the reason for its non appearance on the ground of its involvement in the busy business in September 2024. On the other hand, the bank started blaming the Court and plaintiff and third parties as if the summons was not served. Summon was not served on not an ordinary employee but on Assistant Manager in officer cadre in the bank. Even though the bank is a public institution handling the public money when it comes to the Court with unclean hands, its allegations cannot be endorsed and countenanced.

12. As correctly pointed out by the learned counsel for the plaintiff, the power to condone the delay is discretionary power conferred upon the Courts. Such power should be exercised only in favor of the litigants who come to the Court with clean hands. In this case, the Chief Manager of State Bank of India has filed false affidavit accusing the Court and plaintiff. The defendant has not refuted the filing of Writ Petition by the plaintiff against the defendant and filing of counter by the defendant and exchange of notices prior to institution of notice and pre institution

mediation. Even after issuance of legal notice by the plaintiff after ex parte decree, the bank did not choose to file applications in June 2025 itself. Only upon receipt of notice and attachment of movable properties, the defendant has come forward with the these applications with false reasons. Even in Execution Proceedings in EP.No.56 of 2025 initiated on the strength of the decree by the plaintiff, the defendant being a judgment debtor appeared on 24.10.2025 itself and its counsel filed vakalat on 05.11.2025 and secured time till 23.2.2026 for filing counter. The non filing of counter resulted in passing order of attachment and movable properties were attached and it was recorded on 27.03.2026. Only thereafter the bank has filed these applications. A person, whose case is based on a falsehood, has no right to approach the Court and he can be summarily thrown out at any stage of the litigation. One who comes to the court must come with clean hands. There is no sufficient reason or cause for condonation of inordinate and long delay of 405 days in taking steps to set aside the ex parte decree. The petitions are Devoid of merits.

In the result. the applications are dismissed with cost of respondent.

Dictated by me to the Steno-Typist, directed typed by him in the computer, corrected and pronounced by me in the open court, this 17th day of July 2026.

GANAPATHI
SAMY

Digitally signed
by GANAPATHI
SAMY
Date: 2026.07.17
17:39:54 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Common Order in

I.A.Nos.4 &5 of 2026

in

C.O.S.No. 262 /2024

Date: 17.07.2026

Principal Commercial Court,
Egmore, Chennai.