



UPLOADED ON 02.09.2026

IN THE COURT OF PRINCIPAL COMMERCIAL COURT,
EGMORE, CHENNAI

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

Dated this 2nd day of September 2026, Wednesday

IA.No. 2 of 2026
in
C.O.S.No.71 of 2026
(CNR.NO. TNCH1B-001057-2025)

1. Sampath Vinayaka Enterprises.,
Represented by its Proprietrix,
Mrs.Rama Jamuna @ Jamuna Rama,
No.15-11-137/1, Ramannapet,
Warangal,
Warangal Urban,
Telangana – 506 002.

2. Mrs. Rama Jamuna @ Jamuna Rama,
Proprietrix,
Sampath Vinayaka Enterprises.,
No.15-11-137/1, Ramannapet,
Warangal,
Warangal Urban, Telangana – 506 002.

...Petitioners / Defendants

-Vs-

M/s. Massey Enterprises Pvt Ltd.,
Represented by its Power Agent,
No.17, North Railway Terminal Road,
Royapuram,
Chennai – 600 013.

Also at
Door no.1-38/1 Ground floor,
Opp. Pepsi Depot
Musalayapalem,
Satgar Nagar,
Vizhakapatnam,
Andhra Pradesh

...Respondent/Plaintiff

This Petition coming on this day for hearing today (02.09.2026) before me in the presence of M/s. Akash Shatriya, learned counsel for petitioners/defendants; of M/s. K.Ashok Kumar and L.Ganesan, learned counsels for the Respondent/Defendant and upon hearing the arguments of Respondent and having stood over for consideration till this day, this court today delivers the following:

ORDER

1. The Petitioners/Defendants have come forward with this application under Order XXXVII Rule 4 of Code of Civil Procedure to set aside the ex parte order dated 29.04.2026 inter alia alleging that when the case was posted on 10.04.2026, as the Mother of 2nd defendant was taken to hospital due to her ill-health, the defendants could not give notice of appearance and the defendants

were acquitted in STC No.11143 of 2023 filed by plaintiff for dishonour of cheque in respect of same transaction alleged in suit.

2. The Respondent/Plaintiff has resisted this application inter alia alleging that the defendants have suppressed the pendency of appeal filed by plaintiff in Crl.A. No.1369 of 2025 against order of acquittal passed in STC No.11143 of 2023 and in spite of the defendants appearing before this Court through their counsel on 01.04.2026, they did not serve notice of appearance and without producing any documents relating to ill-health of 2nd Defendant's mother, the defendants have filed this application to protract the proceedings.

3. The point for consideration in this application is whether there is sufficient cause to set aside ex parte decree?

Heard counsel for Respondent. Counsel for Petitioner did not argue this application.

4. The plaintiff has filed the main summary suit for the relief of recovery of suit claim of Rs.40,46,192/- with interest. The defendants entered their appearance through their counsel on 01.04.2026. This Court directed defendants to give notice of appearance by 10.04.2026. When the case was taken on 10.04.2026, there was no representation on defendants side from morning itself. Where the mother of 2nd defendant was not well, the counsel for defendants ought to have appeared before this Court and she should have served notice of appearance on counsel for plaintiff. The defendants have not produced any

medical records and no exceptional circumstances have been made out to set aside the ex parte decree.

5. In Commercial suits, written statement should be filed within outer limit of 120 days. In Summary suits, only after grant of leave, the defendant can file written statement. Due to failure of defendants to give notice of appearance, ex parte decree came to be passed on 29.04.2026. The defendants have reopened this matter and successfully dragged the proceedings for 4 months. Though, there is no exceptional circumstance, this Court deems fit to give an opportunity to defendants to give notice of appearance. At the same time, the defendants shall not be permitted to procrastinate the proceedings. The counsel for petitioners did not argue even this application. Accordingly point is answered.

6. In the result, this application will be allowed on payment of cost of Rs.30,000/- (Rupees Thirty Thousand) by Petitioners/Defendants to the Respondent/ Plaintiff on or before 22.09.2026 at 10.30 a.m. failing which the application will stand dismissed. Call on 22.09.2026.

Dictated by me to the Steno-Typist, directly typed by him in the computer, corrected and pronounced by me in the open court, this 2nd day of September 2026.

GANAPATHI
SAMY

Digitally signed by
GANAPATHI
SAMY
Date: 2026.09.02
17:19:23 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Order in

I.A.No .2 of 2026

in

C.O.S.No. 71 /2026

Date: 02.09.2026

Principal Commercial Court,
Egmore, Chennai.

