UPLOADED ON 17.09.2026

IN THE COURT OF PRINCIPAL COMMERCIAL COURT, EGMORE, CHENNAI

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

Dated this 17th day of September 2026, Thursday,

I.A.Nos. 3 and 4 / 2026 in C.O.S. No.1851 / 2022

1. M/s. GOMS Power Fab Private Limited,
Represented by its Directors,
Defendants 2 to 4 having its Registered office
at No.43, R.K.Nagar,
First Main Road,
Mandevelli,
Chennai.

2. Mr. Esakkia Pillai Goms

3. Mrs.Goms Sivakamirani

4. Mr. Sanjeev

Plot No.5, No.13, Karunanidhi
3rd Street,
Kotturpuram,
Chennai – 600 085. ...Petitioners / Defendants in both the applications

-Versus-

R. Prem Kumar,
Carrying on business
under the name and style of
H. Town Electricals,
No.47 Venkatrayan Lane,
Park Town,
Chennai – 600 003 ….. .Respondent/Plaintiff in both the applications.

These Petitions coming for final hearing on 28.08.2026 before me in the presence of M/s. S.P. Ashok Rathna Pandian, learned counsel for petitioners/defendants in both applications; of M/s. T.Srikanth and T.Shrinikethan, learned counsels for the respondent/plaintiff in both applications and upon hearing the arguments on both side and having stood over for consideration till this day, this court today delivers the following:

COMMON ORDER

1. The Petitioners/Defendants have come forward with these applications under Section 5 of Limitation Act to condone a delay of 725 days in taking steps to set aside

ex parte decree dated 24.06.2024 and under Order IX Rule 13 of Code of Civil Procedure to set aside the ex parte decree inter alia alleging that an employee of 1st defendant company who was handling the litigation matters and co-ordinating with advocates left the 1st defendant company without handing over of pending cases and as there was no proper communication from the previously engaged counsel regarding the status of the case, the defendants could not appear before this Court and an ex parte order dated 31.01.2024 followed by an ex parte decree dated 24.06.2024 was passed. The petitioners have further stated that only after engaging a new counsel in May 2026, they came to know about the ex parte decree and there was delay of 725 days in taking steps to set aside the ex parte decree.

2. The Respondent / Plaintiff has resisted these applications with the following averments:-

The defendants have engaged a counsel and they have filed an application to condone the delay to receive the written statement filed beyond 30 days and therefore they were aware of the proceedings. Only after affording sufficient opportunities to the defendants, they were set ex parte. In these applications, the petitioners cannot seek for 2 reliefs one to set aside the ex parte order dated 31.01.2024 and to set aside the ex parte decree dated 24.06.2024. The 2nd defendant has alone filed affidavit without referring to other defendants in these applications. Furthermore, the suit was originally filed before Commercial Court and it was not transferred from City Civil Court to this Court. The defendants are voracious litigants and 26 cases have been

pending against them. Therefore, the contention that they are not aware of the suit proceedings is a false one. The defendants have admitted their liability in the written statement.

Both side Heard.

3. The point for consideration in these applications are whether there is a sufficient cause to condone the delay of 725 days and whether the ex parte decree is liable to set aside?

4. The plaintiff has filed main suit for the relief of recovery of suit claim of Rs.10,69,906/- before this Court in 2022 for the transactions taken place in 2019 between the parties. The defendants engaged a counsel in the main suit. As correctly pointed out by the learned counsel for the plaintiff, the defendants have filed an application in I.A.No.2 of 2022 to receive written statement filed beyond 30 days. When application was pending, there was no representation on the side of the defendants on 31.01.2024. Therefore, they were set ex parte and after recording of evidence of PW1, this Court passed an ex parte decree on 24.06.2024. The defendants have not denied the pendency of 26 cases against them instituted by various parties. Therefore, the reason that the employee of 1st defendant who was handling the litigation matters left the Company and the defendants could not pursue suit is doubtful.

5. The defendants are not able to disclose the name of the employee and when he resigned the job. Though there is no sufficient reason for condoning the delay and to set aside the ex parte decree, this Court deems fit to give an opportunity to the defendants to contest the proceedings. At the same time, the defendants cannot be permitted to procrastinate the proceeding. In the written statement, they have admitted their liability and they have sought one year time to pay the plaintiff the outstanding due. Therefore, I am of the opinion that these applications can be allowed on deposit of decree amount by the defendants. Accordingly point is decided.

In the result, these applications will be allowed on deposit of decree amount to the credit of the suit on or before 13.10.2026 failing which the applications will stand dismissed. Call on 14.10.2026.

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

GANAPATHI SAMY

Digitally signed by GANAPATHI SAMY
Date: 2026.09.17 17:49:07 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Common Order in
I.A.Nos. 3 & 4 of 2026
in
C.O.S.No. 1851 /2022
Date: 17.09.2026

Principal Commercial Court,
Egmore, Chennai.