



UPLOADED ON 07.10.2026

IN THE COURT OF PRINCIPAL COMMERCIAL COURT,
EGMORE, CHENNAI

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

Dated this 7th day of October 2026, Wednesday

IA.No.3 of 2026 in C.O.S.No. 410 of 2025

Mr. A.L.Udhaya,
S/o A.L.Alagappan,
M/s.Jaeshan Studio,
Proprietor,
No.7/6, Ground Floor,
Bhatia Palace,
Kotturpuram,
Chennai – 600 005.

...Petitioner / Defendant

- Versus -

Mr. A.M.Arockia Sudhakar,
S/o A.M.Fernando,
No.22, Arcot Road,
Saligrammam,
Chennai – 600 093.

.... Respondent / Plaintiff

This Petition coming on this day for hearing on 25.09.2026 before me in the presence of M/s.HSR Advocates & Legal Consultants, Harish Kumar, Rangeela RP, learned counsels for Petitioner / Defendant; of M/s. R.Karunagaran, M.Saritha, M.Reena, C.Ezhilarasi and G.Padmapriya, learned counsels for the Respondent/ Plaintiff and upon 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 Order IX Rule 13 read with Section 151 of Code of Civil Procedure to set aside the ex parte decree dated 25.06.2026 with the following averments:-

When the case was posted for cross examination of PW1 on 22.04.2026, the defendant sought for an adjournment to effectively conduct the cross examination of PW1 and this Court granted time till 04.06.2026 subject to payment of cost of Rs.5,000/- by the defendant to the plaintiff. Considering the financial difficulties, the defendant requested this Court to reduce cost and sought a reasonable opportunity to comply with the order. The request was not accepted. Due to financial constraints and inability to pay the amount within the limited time granted, the defendant could not pay the cost. Consequently his right to cross examine PW1 was closed. When the case was posted on 15.06.2026 for defendant side evidence, the defendant sought for short

adjournment to produce his evidence in support of his defence and it was not granted and his evidence was closed. After hearing arguments, this Court passed an ex parte decree on 25.06.2026. The defendant has valid defence and he has made several payments to the plaintiff.

2. The Respondent/plaintiff has resisted this application with the following averments:-

This Court granted a long adjournment subject to payment of cost of Rs.5,000/-. Without paying cost, the defendant again sought adjournment to pay the cost. The defendant has released his picture and neglected to re-pay the assured amount to the plaintiff. The plaintiff has suffering with his ailing son and facing difficulties to eke out his livelihood. The defendant failed to give evidence on 15.06.2026. The petition is liable to be dismissed.

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

Both side Heard.

4. The Respondent/Plaintiff has filed the main suit for the relief of recovery of suit claim of Rs. 50,75,000/- based on promissory note and returned cheques against the defendant. Even on the date of first appearance, the defendant failed

to appear before this Court, even after receipt of summons. He was set ex parte on 16.09.2025. He filed an application in I.A.No.2 of 2025 to set aside the ex parte order. The above application was allowed on payment of cost of Rs.1,000/- by him to the plaintiff. In almost all hearings, there was no representation on the side of the defendant. When the case was posted for affidavit of admission and denial or framing of issues or examination of plaintiff side witnesses, there was no representation on plaintiff side. When the PW1 filed his proof affidavit, there was no representation on the side of the defendant and this Court gave liberty to the counsel for defendant to collect copy of proof affidavit from Court. When the case was taken on 22.04.2026, the defendant was not present and his counsel requested to adjourn the case for cross examination of PW1.

5. This Court gave long adjournment and posted the matter to 04.06.2026 subject to the payment of cost of Rs.5,000/- by the defendant to the plaintiff for causing delay. On 04.06.2026, the defendant was not present, but his counsel was present. As cost was not paid, his right to cross examine was closed. Thereafter this Court afforded an opportunity to the defendant to give his evidence and posted the matter on 15.06.2026. The plaintiff was waiting from morning itself upto 4.30 p.m. The counsel for defendant was simply present during calling work and left and there was no representation thereafter. Therefore, this Court closed evidence of defendant. The narration of above

facts would show the attitude of the defendant in protracting the proceedings. Therefore, the reason of financial constrain to pay the cost is the cause invented for the purpose of this application. There is no sufficient reason to set aside ex parte decree. However, this Court deems fit to give an opportunity to the defendant to contest the suit on payment of cost. Accordingly point is decided.

In the result, this application will be allowed on payment of cost of Rs.20,000/- by the defendant to the plaintiff on or before 29.10.2026 at 10.30 a.m. failing which the application will stand dismissed.

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 7th day of October 2026.

GANAPATHI
SAMY

Digitally signed
by GANAPATHI
SAMY
Date:
2026.10.07
17:05:50 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Order in

I.A.No.3 of 2026

in

C.O.S.No.410 /2025

Date:07.10..2026

Principal Commercial Court,
Egmore, Chennai.

