UPLOADED ON 29-10-2026

IN THE COURT OF ADDITIONAL COMMERCIAL COURT, EGMORE, CHENNAI

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

Principal Judge, Principal Commercial Court,

Additional Commercial Court (FAC)

Dated this 29th day of October 2026, Thursday

I.A.No:6/2026 in C.O.S.No: 1580/2022

CNR NO. TNCH1B-002955-2022

1. M.I.Alloys Pvt. Ltd.,
Represented by its Director,
Mr. Champalal Jayantilal Purohit,
No.157/2, Paiki 2, Talood Road,
Ujediya Tatalood, Dis-Subarkantha,
Gujarat- 385 215.

2. Mr. Champalal Jayantilal Purohit,
Director of M.I.Alloys Pvt. Ltd.,
Office at No.304, 3rd Floor,

Adishwar Gold, S.P.Ring Road,
Nikol-Odhav Ahmedabad,
Gujarat-382 350. … Petitioners/Defendants

(Vs)

M/s. Umiya Ispat Limited,
Represented by its Managing Director,
Mr. Harsan Kumar,
No.32, Audiappa Naicken Street,
Chennai-600 001. … Respondent/Plaintiff

This petition coming on this day for final hearing on 06-10-2026 before me in the presence of M/s. Antony R.Julian, V.R.Swetha Naidu, and Janani P.R; learned counsels for the petitioners/defendants; of M/s. S.Ambigai, learned counsel 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

The petitioners/defendants have filed this application under Order XXXVII Rule 4 of CPC and Section 5 of Limitation Act seeking for condonation of delay of 582 days in taking steps to set aside the decree dated 10-12-2024.

Averments of affidavit filed in support of this application are shortly as follows:

1. In the summary suit filed by the plaintiff for recovery of Rs.85,74,899.59/-, the defendants filed an application seeking for leave to defend the suit and it was dismissed on 06-01-2024. In the CRP preferred by the defendants, our Hon'ble High Court passed an order dated 23-09-2024 granting leave to the defendants subject to

deposit of Rs.51,04,106.90/- with interest at the rate of 12% per annum within a period of 8 weeks from the date of order. Since the defendants had to deposit the huge amount of money and the Gujarat based defendants company could not immediately communicate with their counsel with regard to deposit, they could not deposit the amount and an exparte decree was passed on 10-12-2024. There was internal deliberations among Directors of company so that there was delay in finalizing the necessary instructions to take further steps. The defendants have not received any further information regarding subsequent date of hearing of suit. They came to know about the exparte decree only on receipt of notice in Execution Petition in January 2026 filed by decree holder. There was delay in obtaining the certified copy of the judgment and decree owing to unavailability of counsel and refusal of other counsels to accept the brief. The defendants are ready to deposit 25% of the principal amount which was directed by Hon'ble High Court.

The respondent/plaintiff has resisted this application with the following averments:

2. The moment when the defendants failed to comply with the order of Hon'ble High Court, the plaintiff is entitled to a judgment and decree forth with. The defendant appeared in Execution Petition filed by the decree holder in District Court Himatnagar, Ahmedabad, even in the first hearing on 22-12-2025 and they are delaying the execution proceedings for the last 8 months. They simply got adjournments in execution proceedings. Therefore, they were aware of knowledge of decree passed by this court. The judgment debtor cannot dictate this court to set aside the decree by offering 25% of principal amount. The defendants cannot assign any sufficient reason. Their corporate company has access to legal resources. The judgment and decree was passed in summary suit legally on 10-12-2024.

The point for consideration in this application is whether the delay of 586 days is condonable?

3. Heard both sides.

4. The plaintiff has filed the main suit in COS.No.1580/2022 under Order XXXVII for recovery of Rs.85,74,899.59/-. The defendants filed an application in I.A.No.4/2023 seeking for leave to defend the suit. This court has dismissed the application on 06-01-2024.

5. Aggrieved by the order, the defendants preferred a Revision in CRP.No.904/2024. Our Hon'ble High Court granted leave to the defendants subject to deposit of Rs.51,04,106.90/- with interest at the rate of 12% per annum within a period of 8 weeks. The defendants have failed to comply with the condition of deposit of the above amount with interest. Once the defendants failed to comply with the order, the defendants have lost their right of defending the suit and the plaintiff is entitled to judgment and decree immediately.

6. Accordingly the decree came to be passed on 10-12-2024. By no stretch of imagination, the decree can be termed as an exparte decree. It is a statutory decree passed by this court when the defendants have lost their right of defending the suit. Therefore there is no question of condoning delay and setting aside the decree.

7. If the condition imposed in CRP is onerous, the defendants ought to have approached our Hon'ble High Court to modify the order. The defendants having participated in execution proceedings actively have filed this application only for the purpose of dragging the execution proceedings with false allegation that they came to know about the decree only after receipt of notice in execution petition. The defendants are not ordinary laymen. The 1st defendant is a company having a legal team. The

question of condonation of delay does not at all arise. This court has not passed any exparte decree. This application is devoid of merits.

In the result, the application is dismissed with cost.

Directly dictated to the steno-typist and directly typed by her in my desktop and corrected and pronounced by me in the open court, this 29th day of October 2026.

GANAPATHI SAMY

Digitally signed by GANAPATHI SAMY
Date: 2026.10.29 17:42:03 +0530

Principal Judge,
Principal Commercial Court,
Additional Commercial Court, (FAC)
Egmore, Chennai.

Draft/ Fair Order in
I.A.No.6/2026 in
C.O.S.No.1580/2022
Dated: 29-10-2026
Additional Commercial Court