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A.No.1291 of 2025 in
C.S.No.538 of 2007

C.V.KARTHIKEYAN, J.

This application has been filed to set aside the order dated 03.01.2025 made in C.S.No.538 of 2007 dismissing the suit for default and to restore the suit in C.S.No.538 of 2007.

2. The suit had been filed under Section 92 of the Code of Civil Procedure relating to the Trust which had been impleaded as the first defendant. The defendants 1 to 10 are the trustees and the defendants 13 to 16 are the purchasers of the properties of the Trust. The grievance of the plaintiffs is that they have not been co-opted as trustees though the trust deed provides that the family members of the original trustee should be the trustees of the first defendant.

3. Quite strangely, the defendants have chosen to remain *ex parte* after filing their written statement and the plaintiffs had also permitted the suit to be dismissed as default. This application has been filed to restore the suit. It is made clear that the plaintiffs cannot take advantage of the fact that the



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defendants remained *exparte*, as the Court will also examine the written statement filed on their behalf to determine the right of the plaintiffs.

4. Taking all these factors into consideration, this application is allowed and the suit is restored. Notice is not issued to the respondents, since they have already been set *exparte* in the suit.

5. List the matter on 11.06.2025, for advancing arguments / for dismissal.

03.06.2025

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