



O.S.A.(CAD).No.152 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2025

C O R A M

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

O.S.A.(CAD) No.152 of 2025

and

C.M.P.No.32593 of 2025

1.M.Maria Albert Stanly

2.M/s.Staan Bio-Med Engineering Private Limited,
Rep. by its Managing Director Mr.M.Maria Albert Stanly,
190-A, Bharathiar Road, Ganapathy,
Coimbatore, Tamil Nadu – 641 006.

... Appellants

-VS-

M/s.Diamond Hospital Equipments,
2227 Bank Road, Pandit ShriRam Sharma Metro Station on Green Line,
Modern Industrial Estate, Part B, Bahadurgarh,
Jhajjar – 1244507, Haryana, India.

... Respondent

Prayer: Original Side Appeal filed under Section 13 of the Commercial Courts Act, 2015 read with Order XXXVI Rule 9 of the Original Side Rules, praying to set aside the order and decretal order passed in A.No.4820 of 2022 in C.S(Comm. Div.) No.14 of 2022 dated 02.04.2024 and allow the appeal.

For Appellants : Mr.Ramesh Ganapathy



O.S.A.(CAD).No.152 of 2025

J U D G M E N T

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(Judgment of the Court was delivered by S.M.SUBRAMANIAM,J.,)

Certain procedural errors or mistake either on the part of the litigants or on the part of the Registry of the Court whether condonable or un-condonable is to be examined before considering the issue. Courts have considered that certain mistakes or errors, which may not cause prejudice to either of the parties are always condonable. The Hon'ble Supreme Court of India in ***Dolly Chhanda Vs. Chairman, Jee and others*** reported in **(2005) 9 SCC 779** laid down the principles regarding condonable errors. Applying the said principles, the present case is to be examined.

2. Under assail is the order dated 02.04.2024 in A.No.4820 of 2022 in C.S.(Comm.Div.) No.14 of 2022.

3. The suit is about design infringement. The plaintiffs are the appellants before this Court. The defendant filed a written statement along with the counter claim within 120 days and the Court has also received the same. However, the appellants/ plaintiffs raised an objection that under Order 8 Rule 1 of the Code of Civil Procedure, petition to condone the delay along with reasons had not been filed by the defendants to take on



O.S.A.(CAD).No.152 of 2025

file the written statement and the counter claim. Therefore, it is a defective filing and the procedures are violated. Such violations are not considered by the trial Court. Thus, the present Appeal came to be instituted.

4. It is not in dispute that the written statement and counter claim was filed by the defendant within 120 days and the Court also received the same. However, the Registry committed an error not returning the case by asking the petitioner to file condone delay petition along with papers. The said error caused by the Registry would not cause prejudice to any of the parties nor would result in injustice.

5. Under these circumstances the non-adherence of procedures is to be construed as condonable error and the learned Single Judge has well considered the principles, though it has not been stated expressly. Further the procedures are only hand made and through that procedures we cannot nullify the claim of the parties. The learned Single Judge has further observed that the present case is an exceptional one and cannot be treated as precedent. This Court also approves the said finding.

6. Thus, this Court is not inclined to interfere with the order impugned in Original Side Appeal. Accordingly, this Original Side Appeal



O.S.A.(CAD).No.152 of 2025

stands **dismissed**. No costs. Consequently, the connected miscellaneous petitions stands closed.

(S.M.S,J.,) (C.K,J.,)
12.12.2025

Index: Yes / No
Internet: Yes / No
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O.S.A.(CAD).No.152 of 2025

S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.

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O.S.A.(CAD) No.152 of 2025

12.12.2025