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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2025

CORAM

THE HONOURABLE MR JUSTICE A.A.NAKKIRAN

A No. 1397 of 2025

in

TOS No. 6 of 1993

K.Jaya Meshack

W/o.Late S.Meshack, 4/6, 1st Street, Alagiri Nagar, Vadapalani,
Chennai 600 026.

Applicant(s)

..Vs..

DANIEL THOMAS(DECED) M.Lidy Arputhamani (Decd)

T.Kamalam (Decd) 1.D.Jencee Leena

Door No.2, Bharathi Poonga Street, Selaiyur, Chennai 600 003.
and 2 Others

Respondent(s)

ORDER

This application has been filed by the applicant to restore the Application in

T.O.S.No.6 of 1993 which is dismissed for non-prosecution on 02-09-2024.

2. The learned counsel for the applicant submitted that as the earlier Counsel represented for the applicant died, change of Vakalath has been given. Due to advanced age and sickness, the applicant could not engage any other Counsel immediately. In the event of appointing a legal aid advocate by the committee, the applicant came to know



that the above T.O.S. dismissed for non-prosecution on 2-09-2024. Hence the delay of 21 days in filing restoration application.

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3. It has been further submitted that the Legal Heirs of the 2nd Defendant ie., Defendants 5 and 6 filed Tr.C.S.No.654 of 2006 for Partition of the Suit Schedule Property and the same is pending before this Hon'ble Court. The parties in TOS and CS are one and the same. If the suit is not restored, the applicant will be put to great irreparable hardship and mental agony. On the other hand no prejudice will be caused to the respondent if the Suit is restored. Thus, he seeks to allow the said application.

4. Heard and no counter has been filed on the side of the respondent.

5. Having considered the facts and circumstances of the case and having satisfied with the reasons stated in the affidavit and also considering the nature of the case, this Court is inclined to allow the application No.1397 of 2025 in TOS No.6 of 1993. No costs.

09-04-2025



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A.A.NAKKIRAN, J.

lbm

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