



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 25.06.2025

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.6695 of 2024
in C.S.(Comm.Div.) No.198 of 2023

VEMAL

S/o Narasimman, No.3/7, Thiruvengadam Swamy Street, Kannibiran Colony, Saligrammam, Chennai 93 No.28, SRI AYYAPPA NAGAR, 3RD MAIN ROAD, CHINMAYA NAGAR, CHENNAI ... Applicant

-VS-

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S/o Bhoopal, No.3, Ground Floor, Sathivik, U.R.Nagar, Anna Nagar West, Chennai - 600 116.No.28, SRI AYYAPPA NAGAR, 3RD MAIN ROAD, CHINMAYA NAGAR, CHENNAI and 2 Others ... Respondents

For Applicant : Mr.M.Sivavarthanan

For Respondents : Mr.S.Ajith
for M/s.R.Venkatesh

ORDER

By this application, the first defendant seeks to set aside the *ex parte* judgment and decree dated 27.06.2024. Both in the affidavit in support of the application and in the rejoinder, the applicant states that he shifted from



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the address specified in the cause title of the suit in end January 2022 and moved to No.28, Sri Ayyappa Nagar, 3rd Main Road, Chinmaya Nagar, Chennai 600 022 in March 2022. The bailiff's report records that suit summons could not be served on the first defendant because it was reported that he had vacated the premises. Such report is dated 06.02.2024. After recording that suit summons had been returned unserved with the endorsement "vacated", by order dated 09.02.2024, the plaintiff was permitted to effect substituted service by publication. After recording *ex parte* evidence, the suit was decreed on 27.06.2024. The present application was filed on 28.09.2024.

2. Learned counsel for the plaintiff opposes this application on the ground that the first defendant received notice and participated in the pre institution mediation proceedings. He further submits that the same address was shown in proceedings instituted in S.T.C.No.108 of 2022, which the first defendant is contesting. He also submits that the same address was specified by the first defendant while filing a criminal original petition in relation to the said proceedings.



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3. As narrated above, the undisputed position is that the suit summons was returned unserved with the endorsement “vacated”. The *ex parte* decree came to be issued thereafter after effecting paper publication. The first defendant has stated on affidavit that he shifted to the current address in March 2022, which is prior to the endorsement of the bailiff on 18.12.2023. Therefore, sufficient cause is shown, the *ex parte* decree dated 27.06.2024 is set aside and this application is allowed as prayed for.

25.06.2025
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SENTHILKUMAR RAMAMOORTHY,J

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