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C.M.P.No.6799 of 2026
in
A.S.No.278 of 2023

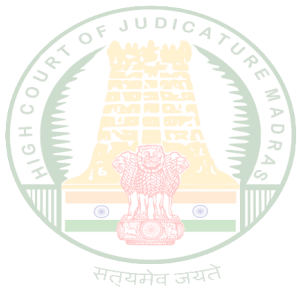
R.KALAIMATHI,J.,

This application is taken out by the first defendant to restore the First Appeal which was dismissed for non-prosecution by an order dated 10.02.2026.

2. The petitioner/first defendant avers that on 10.02.2026 as his Senior Counsel was unwell and he was not in a position to appear before this Court and the Appeal Suit ended in dismissal for non prosecution.

3. On behalf of the respondents, counter affidavit has been filed.

4. The learned counsel for the petitioner/first defendant contended that due to the ill health of the Senior Counsel of the petitioner, matter was not represented which ended in dismissal for non-prosecution.



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5. The learned counsel for the respondents vehemently contended that the suit for recovery of money was ordered by a judgment and decree dated 05.08.2019. Execution Proceedings was taken out in E.P.No.2169 of 2023 and pending before the Trial Court. Despite the receipt of notice, the Judgment Debtors did not appear and they were set ex-parte on 29.08.2025 and attachment of the property was ordered. Thereafter, they entered appearance and informed the Executing Court that the present application pending before this Court.

6. It is the further contention of the Learned Counsel for the respondents that the appeal was listed on 22.10.2025 and after several adjournments finally on 03.02.2026, as appellants were not represented, the matter was posted on 10.02.2026 under the caption 'for dismissal'. On 10.02.2026, also, as the petitioner was not represented, the First Appeal was dismissed for non-prosecution. With a view to protract the proceedings, the petitioner allowed the First Appeal to be dismissed for non-prosecution and has thereafter filed the present petition, which is not maintainable in law.

7. The plaintiffs, Sudhakaran and Karpagam, laid a suit in O.S.No.222 of 2018 before the XVIII Additional Judge, City Civil Court,



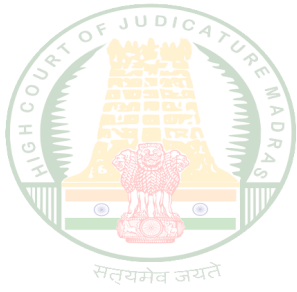
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Chennai, seeking recovery of a sum of Rs.10,04,000/- with interest at the rate of 12% per annum, recovery of the balance lease amount of Rs.7,00,000/- with interest at the rate of 24% per annum, and for the recovery of a further sum of Rs.2,00,000/- with interest at the rate of 10% per annum from the date of plaint till realization and for costs.

8. The petitioner/first defendant has examined herself as D.W.1 and she has deposed that “குத்தகை ஒப்பந்தத்தின்படி வாதிகளிடமிருந்து [ரூ.13](#) லட்சம் பெற்றேன் என்றால் சரிதான். அது செல்லாத பணம். வாதிகள் அந்த தொகையை ஒரே தவணையாக ரொக்கமாக கொடுத்தார்கள். அந்த பணத்தை 15.12.2016 அன்று வாதிகள் கொடுத்தார்கள்.”

9.The said details were not accepted by the trial Court and after hearing the arguments on either side rejecting the defence put forth by the defendants in entirety, decreed the suit on 05.08.2019.

10.It appears that the plaintiffs / decree-holders initiated execution proceedings by filing in E.P.No.2163 of 2023. Thereafter, the present first appeal came to be filed in A.S.No.278 of 2023. It is put forth by the respondents/plaintiffs that the execution petition is presently pending for filing of the Sale Papers.



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11. However, in order to afford an opportunity to the petitioners/defendants, **this Civil Miscellaneous Petition shall be allowed on the condition that the petitioners / defendants shall deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) to the credit of O.S.No.222 of 2018 on the file of XVIII Additional Judge, City Civil Court, Chennai on or before 27.07.2026.** Failing which, this Civil Miscellaneous Petition shall automatically stand dismissed without any further reference to this Court.

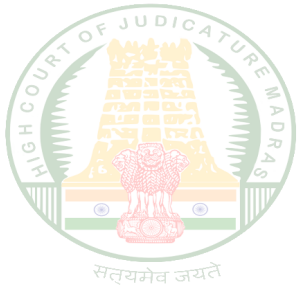
13. Report of compliance by then.

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To

The XVIII Additional Court Judge, City Civil Court, Chennai



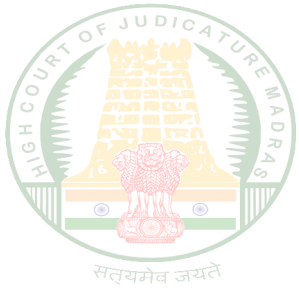
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R.KALAIMATHI,J.,

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