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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-11-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE GK.MUTHUKUMAAR

OSA No. 242 of 2026 and CMP.No.30478 of 2026

CNR: {HCMA012641112025}

S.Karthikeyan

..Appellant(s)

Vs

1. N.Soundaravalli
2. M.M.Homes (P) Ltd
   Rep.By Its Managing Director M.Manickam,
   No.10/25, 5th Street, Dr.Subbarayan Nagar,
   Kodambakkam, Chennai 600 024.

3. N.Ramamurthy
4. M.K. Thamilarasu

..Respondent(s)

Original Side Appeal filed under Order XXXVI Rule 1 of OS Rules read with Clause 15 of Letters Patent to set aside the docket order dated 05.08.2025 passed in A.No.4555 of 2023 in C.S.No.281 of 2011.

For Appellant(s): Mr.Karthik Jagan
For Respondent(s): Mr.V.Chandrakanthan for R1
Mr.Richardson Wilson for R4

JUDGMENT

(Judgment of the Court was delivered by N.Sathish Kumar J.)

Challenge has been made to the order of the learned Single Judge rejecting the memo filed by the appellant for extension of time for payment of costs, the present appeal has been filed.

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2. The appellant being the second defendant sought to condone the delay of 5730 days in filing the application to set aside the exparte order dated 18.12.2007. Taking note of the fact that the suit was originally instituted before the City Civil Court in OS.No.5855 of 2007 and subsequently transferred to this Court and summons were not properly served, this Court vide order dated 03.07.2024 allowed the application to condone the delay, subject to payment of costs of Rs.5000/- to the Cancer Institute at Adyar to be paid on or before 22.07.2024, however, the matter was not listed on that day and the matter was listed only after one year on 22.07.2025 and on 04.08.2025, memo was filed by the appellant seeking extension of time of costs and that memo was rejected by the impugned order vide order dated 05.08.2025. Challenging the same, the present appeal has been filed.

3. The learned counsel for the appellant submitted that the costs could not be paid since the counsel fell ill and the further, the suit was listed for more than a year, whereas, the learned counsel for the respondents 1 and 4 submitted that costs was ordered to be paid on or before 22.07.2024 and the matter was directed to be posted on 23.07.2024. The learned counsel for either side fairly submitted that the matter was not listed on 23.07.2024 and was listed only for the first time on 22.07.2025, at this stage, memo has been filed for extension of time and the same has been rejected. Hence, seeks for orders.

4. Heard the learned counsel for the appellant and the learned counsel for the respondents 1 and 4 and perused the materials placed on record. Since other

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respondents are only formal parties, notice to them is dispensed with.

5. Considering the fact that it is only an exparte order, the suit has been originally filed to cancel the registered documents in favour of the appellant, we are of the view that since the suit has not been listed for a long time and costs could not be paid, one more opportunity should be granted to the appellant. Now, it is stated that costs is also paid which has not been disputed by the respondents. In such view of the matter, the order rejecting the memo stands set aside and as the costs is already paid, the order of the learned Judge dated 03.07.2024 setting aside the exparte order stands restored.

6. Accordingly, this appeal stands allowed. No costs. Consequently, connected miscellaneous petition stands closed.

(N.S.K.,J.) (G.K.M.,J.)
16-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
dhk

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AND
GK.MUTHUKUMAAR, J.

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