

In the Court of the Principal District Judge,
Principal District Court, Kancheepuram.

PRESENT: **Thiru. S. Nagarajan, M.L.,**
Principal District Judge,
Principal District Court ,
Kancheepuram.

Friday the 10th day of July 2026

IA.No.5/2026 in IA.No. 4/2025 in O.S.No.321/2024

M/s. SVAP Homes Private Limited

Represented by its GPOA

M/s. Sowbhagya Co-Operative Housing
Society Ltd.,

Represented by its Director

Mrs. D. Sangupathi and 3 others

...Petitioner/1st Defendant

Vs

1. A. Suresh

.. 1st respondent/Plaintiff

2. The District Collector

Kancheepuram Collector Office

Kancheepuram

3. The Tahsildar

Kundrathur Taluk Office

Kundrathur.

4. The Sub-Registrar Walajabad SRO

Kancheepuram District.

.. 2nd to 4th Respondents/ 2nd to 4th Defendants.

These petition are coming on 08.07.2026 for final hearing before me in the presence of Mr. R. Gopalakrishnan, Counsel appearing for the Petitioner/1st defendant and M/s. R. Parasuraman, R. Arulraj, S. Sethuraman, K.M. Kumar, Counsels for the respondents/ plaintiff and upon hearing the arguments on both sides

and upon perusal of records and having stood over the matter for consideration till this day, this court delivered the following

ORDER

This petition is filed by the petitioner under Order IX Rule 7 of CPC to restore the dismissal order dated 26.03.2026 passed against the petitioner/1st defendant in I.A.No. 4 of 2025 in O.S.No. 321 of 2024.

2) **The averments set out in the affidavit of the petitioner in brief read as follows:**

The petitioner is the 1st defendant in the main suit. The above mentioned case was posted on 06.02.2026, on which date this court was pleased to direct the payment of costs of Rs.2,000/- to the 1st respondent/plaintiff on or before 05.03.2026. The petitioner has always been ready and willing to comply with the said order of this court. However, despite such readiness, the said cost amount could not be paid within the stipulated time, as his counsel was unable to ascertain or trace the contact details of the 1st respondent/plaintiff. Consequently, the payment of Rs.2,000/- to the 1st respondent/plaintiff could not be effected. The petitioner which was neither wilful nor wanton but due to the bonafide reason stated above. If this petition is not allowed. The petitioner will be put to irreparable loss and hardship. On the other hand, no prejudice will be caused to the other side. Hence, the petition may be allowed.

3) **The averments set out in the counter filed the Respondents in brief are as follows:**

The respondents deny all the allegations contained in the affidavit save those which are expressly admitted herein.

The Respondent is the Plaintiff in the above petition. The Set Aside Petition filed by the Petitioner is not maintainable either in law or on facts and is liable to be dismissed in limine. The petition has been filed with suppression of material facts, without bona fides, and only to protract the proceedings.

The Petitioner has failed to show any sufficient cause as required under law for setting aside the impugned order / decree. Mere bald allegations, unsupported by documentary evidence, cannot constitute valid grounds for invoking the discretionary jurisdiction of this Court.

The conduct of the Petitioner clearly establishes gross negligence and lack of due diligence. The law does not come to the aid of a litigant who sleeps over his rights and approaches this Court after unexplained delay.

The Set Aside Petition is also liable to be dismissed on the ground of delay and laches, as the Petitioner has not offered any acceptable explanation for the inordinate delay in approaching this Court.

The present petition is a clear abuse of the process of law, filed only with the intention of harassing the Respondent and frustrating the fruits of the decree/order already passed.

Without prejudice, it is submitted that even on merits, the Petitioner has no sustainable defence in the main proceedings. The order/decreed was passed after due consideration of the pleadings and materials on record and does not warrant interference.

No prejudice whatsoever will be caused to the Petitioner if the Set Aside Petition is dismissed, whereas serious and irreparable hardship will be caused to the Respondent if the petition is allowed.

The present I.A. No.05 of 2026 has been filed by the Petitioner on 02.04.2026, seeking extension of the time stipulated by this Court. The said application is wholly misconceived, devoid of merits, and liable to be dismissed in limine.

The earlier Interlocutory Application filed by the Petitioner was dismissed solely on account of the Petitioner's failure to comply with the conditional order passed by this Court within the time granted. After suffering such dismissal the Petitioner has filed the present application only on 02.04.2026 without offering any satisfactory or convincing explanation for the delay or the earlier non-compliance.

The Petitioner has failed to establish any sufficient cause warranting the exercise of the discretionary jurisdiction of this Court. The reasons assigned in the affidavit are vague bald and unsupported by any material whatsoever.

The conduct of the Petitioner clearly demonstrates that the present application has not been filed bona fide but only with the intention of circumventing the consequences of the earlier dismissal and prolonging the proceedings. The Petitioner, despite having full knowledge of the conditional order through his counsel, deliberately failed to comply with the directions issued by this Court.

The Petitioner cannot be permitted to take advantage of his own default and negligence. A party who has consciously failed to comply with the conditional order of the Court is not entitled to seek equitable relief by filing successive interlocutory applications.

The present application is a clear abuse of the process of this Hon'ble Court, intended only to delay the trial and deprive the Respondent of the expeditious disposal of the suit. If such conduct is encouraged, it would defeat the very purpose of the conditional order passed by this Court. Hence the petition may be dismissed.

4. On perusal of affidavit, petition and the counter, the point for determination that arose for consideration is:-

Whether the petition should be allowed or not?

5) **Point:**

Considering the rival submissions, the petitioner/1st defendant has filed this petition under Order 9 Rule 7 of CPC, stating that in I.A. 4/2025 this court had directed the petitioner to pay the cost of Rs.2,000/- to the 1st respondent/plaintiff on or before 05.03.2026 and that the petitioner counsel was unable to trace the contact

details of the 1st respondent/plaintiff and had sought further time and to restore the dismissal order dated 26.03.2026 passed in I.A. No.4/2025 in O.S.No. 321/2024.

On the other hand the respondent/1st plaintiff had objected that only to protract the proceedings this application has been filed and that the present petition is nothing but an abuse of process of law that the present application is misconceived and that the conditional order passed by this court was not complied and the present application is not maintainable.

Considering the rival submissions, it is seen that the petitioner/1st defendant have not complied the order of this court in I.A.No. 4/2025 in O.S.No. 321/2024 dated 06.02.2026. On 05.03.2026 the cost was not paid and only on 26.03.2026 the said I.A. No.4/2025 was dismissed as not cost paid. The petitioner had not given any detailed reasons for not complying the order of this court.

Hence, considering the nature of the case, the petitioner/defendant is provided an opportunity to the other side namely the respondent/plaintiff should be adequately compensated for the omission to pay the cost not only within the time frame on 05.03.2026 to till 26.03.2026 because another grace period of eighteen days has been provided for the best reasons stated therein. Whatever it is this petition succeeds on cost of Rs.4,000/- to the respondent/plaintiff on or before 20.07.2026. Call on 21.07.2026.

6. In the result, this petition is allowed on payment of cost of Rs.4,000/- on or before 20.07.2026. Call on 21.07.2026.

//This order has been dictated by me to the Stenographer, transcribed and typed by her in the computer, corrected and pronounced by me in the open Court on this the Friday the 10th day of July 2026//

Principal District Judge,
Principal District Court,
Kancheepuram.

Exhibits and Witnesses on both side: NIL.

Principal District Judge,
Principal District Court,
Kancheepuram.

Draft/Fair Order
I.A.No.5/2026 in
I.A.No. 4/2025 in
O.S.No. 321/2024
D.D. 10.07.2026
Principal District Court ,
Kancheepuram.

