

ORDER ON IA No-III & IV

1) The defendants have filed the present applications under Order IX Rule 7 of CPC, seeking setting aside of order of ex-parte against them and under section 151 of CPC, seeking permission of this court to file their written statement. It is the contention of the defendants that, they could not have appeared before this court, as no summons were served to them and they were placed Ex-parte, on having received Shara as “Summons refused” and they have got knowledge about the pendency of the suit thorough their counsel in O.S No.413/2024.

2) In counter to the applications, the plaintiffs have filed their objections, claiming that, the applications filed by the

defendants are not maintainable, on the grounds that, the defendants have filed present applications after delayed period of 302 days and the applications are not accompanied with affidavit. Accordingly sought for dismissal of the applications.

3) Heard both sides, perused materials on record, accordingly the following are the points for consideration of this court.

1. *Whether the defendants have made out grounds to allow I.A No.III and IV?*

2. *What order ?*

4) For the reasons stated below this court answers the above points for consideration as hereunder:

Point No.1: In the Affirmative

Point No.2: As per final order.

REASONS

5) POINT NO.1:

The defendants have filed the present applications seeking to set aside order of Ex-parte against them and seeking permission of this court to file written statement. It is the contention of the defendants that, due to non-service of summons they could not have appeared before this court and they have got information about present suit through their counsel in O.S No.413/2024.

6) On perusal of the materials on record, summons to defendants was reported to be refused, however the plaintiffs claim that, summons were not served to them. Thus considering the same and in the interest of justice and equity, in order to do complete justice and to decide case on hand in full and final this court is of the opinion that, the order of Ex-Parte against defendants may be set aside and they may be permitted to file written statement and in so far as delay is concerned, it may be compensated by imposing adequate cost. Accordingly this court answers **Point No.1 in the Affirmative.**

7) Point No.2:For the reasons stated above this court proceeds to pass the following:

:- ORDER:-

The IA No.III & IV filed by the defendants are hereby allowed on cost of Rs.150/- each.

Consequently order of Ex-parte against defendants is set aside and written statement of defendants is taken on record.

Posted for compliance of Section 89 CPC,
Call on: 11.07.2026

(M.RANJITH KUMAR)
I Addl.Civil Judge & JMFC.,
Kollegala.