

IN THE COURT OF THE MUNSIFF, PUNALUR
PRESENT :-Smt. Reshma R.S, Civil Judge, Junior Division
Friday the 19th day of December 2025, 28th day of Agrahayana 1947.

IA 1/2025 in OS 296/2021
Between

Petitioner/

Defendant : Raichal Cheriyan, aged 54, W/o.Cheriyan,
Ambattu House, Aanapettukongal,
Edamon Village, Punalur Taluk.
(By Adv. Pradeep Chandran)

And

Respondent/

Plaintiff : Shanthamma Abraham, aged 51, W/o.Abraham,
Kondalathu Veetil, Aanapettukongal,
Edamon Village, Punalur Taluk.
(By Adv. B. Prathip Kumar)

This petition is coming on for hearing before me on 19.12.2025 and on the same day court passed the following.

ORDER

Application filed under Order IX Rule 7 of CPC.

2. The application averments in brief are as follows: The applicant is the defendant in the suit. The suit is filed for injunction. The applicant's daughter was hospitalised following childbirth. Hence, the applicant failed to file a written statement in time because she was unable to contact her counsel while her daughter was in hospital. The applicant was at ex-parte on 04.09.2024. Now the case stands for judgment. If an ex-parte decree is passed, It would cause irreparable injury and hardships to the applicant. The ex-parte order against the applicant may be set aside, and the applicant may be permitted to conduct the case. Hence, this application.

3. The respondent filed objection, contending the following: The application is not maintainable either in law or on facts. All averments in the application are fabricated. The daughter of the applicant is employed in Ireland, and her marriage was solemnised 6 years ago. She came to her native place in the first week of February 2025 and returned to Ireland in April 2025. She was not admitted or treated in any hospital at that point of time. Being a friend and neighbour of the defendant, the respondent has direct knowledge regarding the whereabouts of the applicant and her family. The applicant knows that there is a money transaction between the respondent. The suit is filed on sufficient cause of action. The present application is filed on an experimental basis to delay the decree that may be passed in favour of the applicant. If the applicant's intention was true, she ought to have filed the written statement along with this application. No sufficient reason is stated in the application. Hence, this application is liable to be dismissed with the costs.

4. Heard both sides and perused.

5. The sole point to be considered is whether this application can be allowed?

6. The point : The learned counsel for the applicant argued that the application is to be allowed in the interest of justice. According to the applicant, the applicant could not file written statement, as her daughter was in the hospital following childbirth. Hence, the applicant could not contact her lawyer, and accordingly, the written statement could not be

filed on time. Per contra, the learned counsel for the respondent vehemently objected to the application on the ground that the present application is an abuse of the process of the court and that the entire averments in the application are false and baseless. Hence, the respondent prayed for the dismissal of the application.

7. The present suit is filed for realisation of money. But in the application, it is stated that the suit is filed for an injunction. As the present application is filed to set aside the ex-parte order, the only thing to be considered is whether there is any sufficient cause that prevented the applicant from filing the written statement on time. Here, the stated reason is the medical condition of the applicant's daughter. The contention of the applicant is that the applicant's daughter was hospitalised as part of her childbirth and hence the applicant could not conduct her lawyer or file a written statement on time. It is to be noted that no medical records were produced to substantiate the contentions of the learned counsel for the applicant. However, it is to be noted that the applicant filed a written statement and prays for an opportunity to contest a case against her. It is a settled point of law that applications filed to set aside the ex-parte order are to be treated leniently. Here, a sufficient reason is shown by the applicant. Hence, this Court is of the view that this application can be allowed to have an adjudication on merits.

8. However, It is a matter of significance that this suit was instituted in 2021. The applicant was sent ex-parte only on 04/09/2024, after the expiry

of more than 3 years. What prevented the applicant from filing the written statement in all these years has not been made clear. Another thing to be noted is that, in this case, ex parte evidence had already been taken. The case was posted for judgment on 06.03.2025. On that date, the present application was filed to set aside the ex-parte order. Hence, the judgment could not be pronounced. The prejudice caused to the respondent cannot be ignored. However, this Court is of the view that the prejudice caused to the respondent can be mitigated by way of post. Hence, this Court considered it proper to allow this application on condition of payment of costs.

In the result: This application is allowed on the condition that the applicant shall pay a cost of ₹ 1,000 to the respondent within 15 days. The applicant shall file a memo after paying costs to the respondent. If the costs so ordered is not paid as directed, then this application shall stand dismissed.

Pronounced in open court on this the 19th day of December 2025.

Sd/-

Civil Judge (Junior Division)

Appendix: Nil

Id/-

Civil Judge (Junior Division)

//True Copy//

Typed by : Saranya V S

Compared by :

Civil Judge (Junior Division)