

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
KANCHEEPURAM DISTRICT AT CHENGALPATTU.**

Present : **Tmt.J.Mavis Deepika Sundaravadhana, M.A.,M.L.,**
Principal District Judge, Chengalpattu.

Tuesday the 25th day of July 2023

I.A.No.4/2019
in
I.A.No.1/2019
in
O.S.No.21/2018

A.R.Pradhoshini . . . Petitioner / 7th respondent /
proposed defendant.

/Vs/

1. A.Thanigaivel
2. A.Raman
3. A.Somasundaram
4. A.Guberakrishnan

5. Rubalya Devi . . . Respondents / Petitioners /
Plaintiffs.

6. A.S.Rajan @ A.Soundararajan
7. D.Anandhavalli
8. Thulasi Bai @ Thulasi Mala
9. Sathiya
10. Sivakumar

11. Subasini . . . Respondents / Respondents /
Defendants 1 to 6.

This petition came up before me for final hearing on 30.06.2023, in the presence of Tvl.T.Paranthaman and D.V.Subba Rao, Advocates for the petitioner, Thiru.G.S.Suresh Babu, Advocate for the respondents 1 to 5, petition against respondents 6 to 11 is not pressed, upon hearing the arguments of both side counsel, perusing the entire records and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition is filed by the petitioner under Order 9 Rule 7 CPC, praying to set aside the exparte order dated 28.8.2019 made against the 7th respondent in I.A.No.1/2019 in O.S.No.21/2018.

2. The case of the petitioner in brief :

The petitioner is the 7th respondent in I.A.No.1/2019 and proposed defendant in the suit. Except the notice informing the hearing date as 28.8.2019 and the name of the court, nothing has been enclosed along with the said notice. The petitioner's counsel informed that he would file vakalat in the above IA on 28.8.2019 and obtain a copy of the affidavit and petition and therefore petitioner's appearance in person is not necessary before this court. Therefore the petitioner not appeared in person before this court on 28.8.2019. On 28.8.2019 the petitioner's Advocate could not reach the court in time due to heavy traffic in view of an accident and when he

reached this court, he could only find that the petitioner was set exparte and the adjudication was also entered in the 'A' Diary and this happened before 12 Noon itself. Unless the exparte order is set aside the petitioner will be put to serious and irreparable loss and damage. Hence, the petition.

3. The averments of counter filed by 1st respondent and adopted by the respondents 2 to 5 in brief :

The allegations contained in the affidavit paragraph 2 of the affidavit that the copy of affidavit and the petition have not duly served to the petitioner is hereby specifically denied because the counsel for the petitioner is already on record on behalf of the respondents 1 and 2 who are the parents of the present petitioner. The nature of procedure and practice contemplates that any set aside petition filed along with counter only. Now the present petition filed by the petitioner without her counter has not to be entertained. Hence, prayed for dismissal of petition.

4. The point that arises for consideration is whether the application is liable to be allowed.

5. Point :

This petition is filed by the petitioner to set aside the exparte order passed against her on 28.8.2019 in I.A.No.2019 in O.S.No.21/2018. The reason stated by the petitioner that since she did not receive the copy of petition and affidavit along with the court notice is not acceptable,

because admittedly her parents are also one of the parties in the suit. Further the claim against R6 to R11 is not pressed. However, this petition has been filed in time within ten days from the date of exparte. Hence, in the interest of justice, the petition has to be allowed against the respondents 1 to 5.

6. As the result, the petition will be allowed on payment of Rs.500/- as cost to the respondents 1 to 5, on or before 14.08.2023, otherwise the petition stands dismissed. Call on 16.08.2023.

Dictated by me to the steno-typist, computerized by her directly, corrected and pronounced by me in open court, on this the 25th day of July 2023.

Principal District Judge,
Chengalpattu.

Both side witness and exhibit :
Nil.

Principal District Judge,
Chengalpattu.