

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

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

Thursday the 3rd day of October 2024

I.A.No.2/2024
in
O.S.No.269/2018

U.R.Ishwarya @ Shanthi . . . Petitioner / 3rd Defendant.

/Vs/

1. C.Kannan . . . Respondent / Plaintiff.

2. Santhanalakshmi

3. Arunmozhi

4. Sharmila Yadhav

5. Poonkuzhali . . . Respondents / 1, 2, 4 & 5th Defendants.

This petition came up before me in this court for final hearing on 11.09.2024, in the presence of Tvl.M.S.Natarajan, M.S.Shanmugham and A.Abdul Hayath, Advocates for the petitioner, and Thiru.B.Ramnath, Advocate for the 1st respondent, respondents 1, 2, 4 and 5 are formal parties, upon hearing the arguments of 1st respondent's 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 / 3rd defendant under Order 9 Rule 7 CPC to set aside the exparte order passed against her on 17.7.2019.

2. The case of the petitioner in brief :

The petitioner is the 3rd defendant in the suit. On 17.7.2019 the suit was posted for filing written statement of petitioner. Since the petitioner was suffering from severe stomach pain, therefore she could not contact her counsel and could not appear before this court. Therefore, she was called absent and set exparte on that day on 17.7.2019. When the petitioner approached her counsel, he informed that he could not attend the court till date since he was affected by Covid - 19. Thereafter the petitioner engaged a new counsel and through him she was informed that she was set exparte on 17.7.2019. Hence, the petition.

3. The averments of counter filed by the 1st respondent in brief :

The 1st respondent is the plaintiff in suit. The 1st respondent deny all the averments and allegations in the petition affidavit. From 17.7.2019 to 2020 there was no threat with regard to covid - 19 pandemic nearly there was five month gap no action has been taken. Then even after February 2022 till December 2023 there is no action taken by the petitioner / 3rd defendant and in such period there was no covid - 19 pandemic in force. Already withdrawn in 2022 itself. Hence the reasons stated cannot be accepted in the eye of law. The petitioner all along watching the case proceedings in the background and knowingly well that the case is now posted for pronouncement of judgment she come forward with this

vexatious application. Petition is filed in a belated time. Hence, prayed for dismissal of petition.

4. The respondents 1, 2, 4 and 5 in this application are the other defendants and they are formal parties to this application.

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

6. Point :

This petition is filed by the 3rd defendant under Order 9 Rule 7 CPC, to set aside the exparte order dated 17.7.2019 passed against petition filed by petitioner / 3rd defendant.

7. This petition is filed at the time of Judgment. There is no sufficient reason stated by the petitioner for her absence on the day she was set exparte. Hence, if the petition is allowed, it will cause great hardship and prejudice to the other side. However, the petitioner has filed written statement along with this petition. Hence, in the interest of justice, petition will be allowed on payment of cost of Rs.3,000/- to the 1st respondent / plaintiff to be paid on or before 6.11.2024, otherwise the petition stands dismissed.

8. **As the result, petition will be allowed on payment of cost of Rs.3,000/- to the 1st respondent / plaintiff to be paid on or before**

6.11.2024, otherwise the petition stands dismissed. Call on 8.11.2024.

Dictated by me to the steno-typist, computerized by her directly, corrected and pronounced by me in open court, on this the 3rd day of October 2024.

Principal District Judge,
Chengalpattu.

Both side witnesses and exhibits :
Nil.

Principal District Judge,
Chengalpattu.