

**IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE
THIRUPORUR**

PRESENT: Tmt N.Anupriya, B.A.,B.L.,(Hon's)
District Munsif Cum Judicial Magistrate,
Thiruporur.

Thursday, the 04th day of April 2025

I.A.No.1/2024

in

O.S.No.424/2023

1.J.Samundeeswari

2.V.Jeevarathinam

...

Petitioners/ Defendants 1 & 2

Vs

G.Dhanasekaran

...

Respondent/Plaintiff

This Petition came up before me on 26.03.2025 for final hearing in the presence of Ms.V.Nandakumar, Ms.K.Azhagan, Ms.K.Nandhini, learned counsels for Petitioners/Defendants 1 & 2 and Ms.K.Annamma, Ms.R.Kamesh Kumar, Ms.E.Gopalakrishnan, learned counsels for Respondent/Plaintiff. Upon perusal of documents and hearing arguments on petitioners side and having stood over for consideration till this date, this court delivers the following.

ORDER

1. The petition is filed to set aside the exparte order passed against petitioners on 08.07.2024.

2. **The averments in the petition:**

The respondent filed the suit for the relief of permanent injunction. Petitioners appeared before this court and filed vakalath along with memo stating that the 3rd defendant name differs and this court posted the case to take steps to amend the name

of the 3rd defendant and to file written statement. The respondent suppressed the real facts and filed the petition to grab the share of the 1st defendant. Petitioners had applied certified copy of documents along with revenue documents and obtained the same recently. Petitioners came to know that on 08.07.2024 they were set exparte for non-filing of written statement. They have filed written statement along with this petition and have valid resistance to defend the case. The non-filing of written statement is neither willful nor wanton. Hence filed this petition to set aside the exparte order against petitioners on 08.07.2024.

3. The averments in the counter statement:

The respondent filed the suit for permanent injunction and other reliefs. Petitioners filed vakalath along with memo stating that the 3rd defendant name differs and this court posted the case to take steps to amend the name of the 3rd defendant and to file written statement. The case was posted for further proceedings on 06.12.2023, 07.02.2024, 03.04.2024, 10.06.2024 and 08.07.2024. Petitioners neither filed their written statement nor appeared in person and hence defendants were set exparte on 08.07.2024. The petition has to be filed within 30 days but there is delay in filing this petition. The petition is filed to prolong the proceedings. Hence sought to dismiss the petition.

4. The arguments heard on both sides. The entire records perused.

5. Discussion and Findings:

5.1 On perusal of the records, petitioners were set exparte on 08.07.2024 as they failed to appear before this court and failed to file written statement. Now, filed this

present application. Respondents/Plaintiffs has no strong objection to allow this application.

5.2 On considering the facts and circumstances, the stage of the case, in the interest of justice and to provide an opportunity, as there is no strong objection on the side of the petitioner, written statement filed by petitioners along with this petition and to render proper justice by way of proper adjudication, this court is inclined to allow this application and set aside the exparte order passed against the defendant on 08.07.2024.

In the result, the petition is allowed with Costs of Rs.500/- payable to the District Legal Service Authority, Chengalpattu. Compliance report by 25.04.2025.

Dictated to Steno-Typist directly, typed by her, corrected and pronounced this order by me on 04th day of April 2025.

District Munsif cum Judicial Magistrate,
Thiruporur.

Petitioners and Respondent side Witnesses and Exhibits – Nill

District Munsif cum Judicial Magistrate,
Thiruporur.