

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V. Devapriya, B.Sc.,M.L.
District Munsif, Madurantakam

Tuesday, the 29th day of August, 2023

I.A.No. 3/2023
in
O.S.No.44/2022

Valli

...Petitioner/Defendant

-vs-

Nagarajan

...Respondent/Plaintiff

This petition coming up before me on 06.07.2023 for final hearing in the presence of, Thiru.K.Thilagaraj, counsel for the Petitioner/Defendant and Thiru.N.Ganapathy, counsel for Respondent/ Plaintiff and after hearing the arguments on both sides and upon perusing the materials placed on record, and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition has been filed by the Petitioner/Defendant under Order IX Rule 7 of Civil Procedure Code r/w section 151 of Civil Procedure Code to set aside the order setting her exparte dated 06.09.2022.

2.The averments stated in the petition in brief:

The above case is posted for judgement on 21.04.2023. The above case was posted on 06.09.2022 for filing written statement. Due to illness, the Petitioner/Defendant could not contact her counsel and therefore she could not

file the written statement. Hence she was set exparte on 06.09.2023 for non-filing of written statement. Only now, the Petitioner/Defendant had contacted her counsel and came to know of the said fact. Hence the petition.

3. The averments stated in the objection filed by the Respondent/ Plaintiff in brief:

This petition is not maintainable under law and on facts. The allegations stated by the Petitioner/Defendant is false. There is no proof for the illness and hence this petition is not maintainable. The date of exparte order was wrongly mentioned. There is no merits in this petition. Hence this petition is liable to be dismissed with costs.

4. The point for determination is whether this petition is to be allowed or not?

5. No Exhibits marked and no witnesses were examined on both sides

6. Heard both sides and perused the records.

7. The Petitioner/Defendant had filed this petition to set aside the order setting her exparte dated 06.09.2022, on the ground of illness. The Respondent/Plaintiff had not raised any specific objections with regard to the prejudice being caused to him in allowing this petition. The Petitioner/Defendant had filed her written statement along with this petition. Therefore in the interest of justice and for complete adjudication and to avoid further litigation, this court is inclined to allow this petition on costs.

8. In the result, this petition is allowed on cost of Rs.500/- to be paid by the Petitioner/Defendant to the Respondent/ Plaintiff on or before 05.09.2023, failing which, this petition will be automatically dismissed. Call on 05.09.2023.

Typed by me in my laptop, corrected and pronounced by me in open court on this the 29th day of August, 2023

District Munsif
Madurantakam

Petitioner side witnesses and documents:

Nil

Respondent side witnesses and documents:

Nil

District Munsif
Madurantakam