

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V.Devapriya, B.Sc., M.L.,
District Munsif, Madurantakam
Wednesday, the 18th day of September, 2024

I.A.No.4/2024
in
O.S.No.76/2023

1. Rani
2. Vembu
3. Mogandas
4. Balaji
5. Priyadharshani

...Petitioners/Defendants 3 to 7

-VS-

1. Ranganathan
2. Panchalai
3. Lakshmi
4. Sundaramoorthy

...Respondents/Plaintiffs

5. Ponnammal
6. Janaki
7. Perumal

...Respondents/Defendants 1,2 and 8

This petition coming up before me on 23.08.2024 for final hearing in the presence of, Thiruvalargal. K.Ayyasamy, S.Senthilkumaran, S.Jothi and V.Mohanraj, counsels for Petitioners/Defendants 3 to 7 and Thiruvalargal. R.S.Renganathan and G.R.Anbu, counsels for the Respondents 1 to 4/Plaintiffs and Respondents 5 to 7/Defendants 1,2 and 8 having been set exparte in the main suit 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 Petitioners/Defendants 3 to 7 under Order IX Rule 7 of Code of Civil Procedure, to set aside the order dated 22.01.2024 setting them exparte in the above suit.

2.The averments stated in the petition, in brief :-

The Respondents 1 to 4/Plaintiffs had filed the above suit for declaration of title and for permanent injunction and the above suit was posted on 22.01.2024 for filing the written statement. On that day, the 4th Petitioner/4th Defendant had suddenly suffered illness and therefore he could not meet his counsel for filing written statement. Therefore the Petitioners/Defendants 3 to 7 were called absent and set exparte. The Petitioners/Defendants 3 to 7 had filed the written statement along with this petition. Therefore it is necessary to set aside the order setting the Petitioners/Defendants 3 to 7 exparte. Hence the petition.

3. The averments stated in the counter filed by the 1st Respondent/1st Plaintiff and adopted by Respondents 2 to 4/Plaintiffs 2 to 4, in brief :

This petition is not maintainable in law and on facts. The averments in the affidavit are false. The 2nd Petitioner/2nd Defendant had not stated anything about

the Petitioners 1,3 to 5/Defendants 3,5 to 7 in the affidavit. The other Petitioners had not stated any bonafide reasons for their absence and therefore their written statement could not be received into filed. 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 were marked and no witnesses were examined on both sides.

6. Heard both sides and perused the records.

7. The Petitioners/Defendants 3 to 7 had filed this petition to set aside the order setting them exparte in the above suit, on the ground of illness. The Respondents 1 to 4/Plaintiffs had resisted the petition stating that the Petitioners/Defendants 3 to 7 had not stated any bonafide reasons. The Respondents 1 to 4/Plaintiffs had not stated any fact with regard to the prejudice being caused to them. Hence, in the interest of justice and for complete adjudication and to avoid multiplicity of proceedings, this court is inclined to allow this petition on costs.

8. In the result, this petition is allowed on the cost of Rs.500/- to be paid by the Petitioners/Defendants 3 to 7 to the Respondents 1 to 4/Plaintiffs, on or before 25.09.2024, failing which, this petition will be automatically dismissed. Call on 25.09.2024.

Dictated to the Stenographer, transcribed and typed by him and corrected and

pronounced by me in open court on this the 18th day of September, 2024

District Munsif
Madurantakam

Petitioners side witnesses and documents:

Nil

Respondents side witnesses and documents:

Nil

District Munsif
Madurantakam