

IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE
NO.01, KODAIKANAL, DINDIGUL DISTRICT

Present: Thiru. M.Selvam, B.A., B.L.,
District Munsif Cum Judicial Magistrate No.01, Kodaikanal
Tuesday, this the 21st day of January 2025

I.A.No. 01 of 2024

in

O.S. No. 74 of 2023

(CNR No.TNDG11-000291-2023)

Tmt. Shanthi

...Petitioner/1st Defendant

/versus/

1. Tmt. Jayanthi

... 1st Respondent/Plaintiff

2. The Sub-Registrar,

Kodaikanal

... 2nd Respondent/2nd

Defendant

This petition is heard in the presence of Mr. P. Mohanasundaram., B.Sc., B.L., the Learned counsel for the Petitioner/1st Defendant and Mr. P.Prabhakaran., B.A., L.L.B., the Learned counsel for the Respondent/Plaintiff. The 2nd respondent had not filed any counter statement. Enquiry heard on both sides and having stood over for my consideration till this day, this court delivered the following,

ORDER

This petition has been filed by the Petitioner/1st Defendant to set-aside the exparte order dated 05.09.2024 passed in the Original Suit.

1. The petitioner contended that on 05.09.2024, the original suit was posted for filing written statement and on that day, his counsel had come to the court in bus to file the written statement and the petitioner awaited to receive him in the Kodaikanal Bus Stand. But on that day, the bus was 1-1/2

hour late. In the mean while, the case was called upon and the petitioner herein was set-exparte. Hence, this petition.

2. The 1st respondent contended that the reason adduced in the petition is not an acceptable one and this court had already granted several opportunities to the petitioner to file his written statement. Hence, this petition is liable to be rejected.

3. The 2nd respondent had not filed any objection to this petition.

4. No oral and documentary evidence on either side.

5. Point for Consideration:

5.1. Whether this petition has to be allowed or not ?

6. Both side rival submissions heard and perused the pleadings and materials on records. This petition is filed by the petitioner/1st defendant to set-aside the exparte order dated 05.09.2024 passed in the original suit. The petitioner/1st defendant was set-exparte on 05.09.2024 for non-filing of written statement. Admittedly, the petitioner/1st defendant had also filed his written statement along with this petition. The reason adduced in the petition that on 05.09.2024 his counsel had came to the court in bus to file the written statement and the petitioner awaited to receive him in the Kodaikanal Bus Stand. But on that day, the bus was 1-1/2 hour late and in the mean while, the case was called upon and the petitioner herein was set-exparte is also satisfactory. The respondents had not shown anything to the contrary. At this Juncture, this court forms opinion that it will advance the interest of justice for both the parties, if the main suit was decided on merits on considering both sides evidence if any produced before this court. Hence an final oppurtunity can be given for the petitioner herein to proceed with

the main suit. Therefore, in the interest of justice and to avoid the multiplicity of proceedings, this court is inclined to allow this petition.

In the result, this petition is allowed. Considering the facts and circumstances of this case, there is no order as to cost.

This order is typed by me in my official laptop, corrected and pronounced by me in the open court on this 21st day of January 2025.

District Munsif Cum
Judicial Magistrate No.01,
Kodaikanal.

Both side witnesses and documents: Nil

District Munsif Cum
Judicial Magistrate No.01,
Kodaikanal.

**District Munsif cum Judicial
Magistrate No.I Court,
Kodaikanal, Dindigul District
I.A.No. 01 of 2024
in
O.S.No. 74 of 2023
Draft/Fair Order
dated: 21.01.2025**