

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DHARMAPURI

Present: Tmt.U.Monica,M.L.,
Additional District Judge,
Dharmapuri.

Wednesday, this the 22nd day of April 2026

I.A.No.6/2026
in
O.S.No.240/2023

1.Vijayakumar.
2.Sevathal.

..... Petitioners/6th and 9th defendants.

/versus/

Rojamani.

..... Respondent/plaintiff.

This petition is coming on 22.4.2026 for final hearing before me in presence of Thiru.B.Girubananthan, Advocate for petitioners and Thiru.V.V.Venkatesan, Advocate for respondent. Upon hearing both side arguments, on perusal of the entire case records and having stood over till this day, this court pronounces the following:

ORDER

This petition has been filed under order 9 rule 7 CPC and section 151 of CPC to set aside the exparte order.

2. The averments in the petition in brief is as follows:

According to petitioners, as first petitioner was unable to obtain documents enclosed with plaint and Sale deed dated 31.10.1995 and his mother's (2nd petitioner) health was affected, he has to take care of her, so they were unable to file written statement in time. Hence exparte order has to set aside.

3. The averments in the counter filed by respondent in brief is as follows:

The respondent resisted the petition by contending that petitioner has filed this petition based upon false averments, male legal heirs have colluded together to grab the joint family properties and also constructed shops, buildings in Dharmapuri bypass road and enjoying the rents. After the examination of plaintiff side witnesses, defendants 4 and 5 filed petition to set aside ex parte order and the same was allowed. Only to drag on the proceedings, this petition has been filed. There is no details as to when the petitioner obtained Sale deed dated 31.10.1995 and medical treatment. During the pendency of the suit, a Sale deed dated 8.1.2025 has been created, further the Sale agreement dated 17.9.2025 in the name of Balamurugan has been also created to encumber the suit properties. There is no merits in the petition and the petition is liable to be dismissed.

4. The point for consideration:

Whether the petition is to be allowed or not?

5. Heard both side. No oral or documentary evidence have been adduced on both side.

6. Point:

6.1) The petitioner alleges that as there were not in possession of certain important document and second petitioner was not well, they were unable to file written statement in time. Hence ex parte order has to be set aside.

6.2) The respondent resisted the petition by contending that petition has been

filed only to drag on the proceeding without any merits by defendants in collusion. They have also created encumbrance in the suit property pending suit.

6.3) This is a suit for partition. Taking into consideration, nature of the suit, this court is of view that in the interest of justice, to provide an opportunity to prove the case and prevent multiplicity of proceedings and for proper adjudication of the case, that this petition has to be allowed on cost.

In the result, petition is allowed on payment of cost of Rs.1000/- to respondent on or before 29.4.2026 failing which petition stands dismissed. Call on 30.4.2026.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 22th day of April 2026.

Additional District Judge,
Dharmapuri.

**Petitioners side Evidence, Exhibits: Nil
Respondent Side Evidence, Exhibits: Nil.**

Additional District Judge,
Dharmapuri.

Fair Order
I.A.No.6/2026 in
O.S.No.240/2023
Dated:22.4.2026.