

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE,DHARMAPURI

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

Wednesday, this the 18th day of March 2026

I.A.No.11/2025

in

O.S.No.113/2020

Mayilu.

... Petitioner/defendant.

/versus/

Parasuraman.

... Respondent/plaintiff.

This petition is coming on 12.3.2026 for final hearing before me in presence of Mr.I.Veerassamy, Advocate for petitioner and Mr.S.Rajiv Gandhi, Advocate for respondent and 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:

ORDER

This is a petition filed under order 9 rule 13CPC to set aside the exparte order.

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

The plaintiff has filed this suit for specific performance and the case was posted on 7.8.2023 for the defendant side evidence. As the petitioner was not well and due to his business, he was unable to give information to his counsel. Due to his absence, he has been set exparte, an exparte decree was passed on 4.9.2023. Only after receipt of notice in E.P.No.7/2024, only after that he came to know that exparte order was passed against him. He has got good case on merits. Hence the exparte order has to be set aside. Hence the petition has to be allowed.

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

All the allegations in the petition are not correct. The respondent was set exparte and the suit was decreed only in respect of the alternate relief of recovery of advance amount. The respondent has filed E.P for the decree amount of Rs.10,00,000/- together with interest, cost totally for Rs.15,84,821.50./- The petitioner after receiving summons in E.P.No.7/2024 filed counter after enquiry, when the case was posted for attachment in order to stop it, she has filed this petition. This petition has been filed only to prevent the respondent from recovering the decree amount by filing E.P.No.7/2024. After attachment has been ordered. The respondent has filed petition to set aside the exparte order passed in I.A.No.12/2025 to condone the delay. 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 either side.

6. Point:

6.1) The petitioner alleges that she was not well and due to her business commitment. she was unable to contact her counsel to know stage of the case. Only after receipt of summons in E.P, she came to know about the exparte decree. She has got good case on merits. Hence the petition has to be allowed.

6.2) The respondent resisted the petition by contending that only to stop the attachment in E.P.No.7/2024, the petition has filed this petition. Hence the petition is liable to be dismissed.

6.3) O.S.No.113/2020 is a suit for the relief of specific performance and for permanent injunction. As the petitioner not has adduced any evidence, she has been set exparte and the suit has been decreed in respect of refund of advance amount alone. The respondent has filed E.P.No.7/2024 for attachment and Sale. The petitioner after receiving summon in the E.P filed counter and come forward with this petition.

6.4) Admittedly the petitioner is a 50 years old lady. Taking into account her case that she was not well and due to business commitment she was unable to contact her counsel, this Court is of view that in the interest of justice to provide petitioner an opportunity to prove the case and prevent multiplicity of proceedings, this court is of view that the petition has to be allowed on cost.

In the result the petition is allowed and payment of Rs.1000/- to respondent. Cost to be paid on or before 25.3.2026 failing which the petition stands dismissed. Call on 26.3.2026.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 18th day of March 2026.

Additional District Judge,
Dharmapuri.

Petitioner Side witness, Exhibits: Nil
Respondent Side witness, Exhibits: Nil

Additional District Judge,
Dharmapuri.

Fair Order

I.A.No.10/2025 in

O.S.No.113/2020

Dated:18.3.2026.