

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE  
ERODE**

Present: **Tmt.S. SAMEENA, B.A., L.L.B.,**  
Principal District Judge, Erode

Tamil Visuvaavasu Varudam, Aavani Month, 18<sup>th</sup> day  
Wednesday, the 03<sup>rd</sup> day of September, 2025

**IA No.96/2021**  
**in**  
**OS No.183/2017**

1. A. Mahalingam (died)  
2. Padmavathi  
3. Anand  
4. Arunprasath  
(2 to 4 impleaded as per Order in  
IA No.6/2025 dated 03.07.2025)  
(Amended as per Order in  
IA No.8/2025 dated 17.07.2025)

... Petitioners/Plaintiffs

Vs

1. C.Ravichandran  
2. M.Chinnasamy

... Respondents/Defendants

This interlocutory application coming on 18.08.2025 for final hearing before me in the presence of Thiru.P.Ra.Ilankgo, B.Sc., B.L., Advocate for the Petitioners/Plaintiffs and of Thiru.P.Shanmugam, B.Sc., B.L., Advocate for the 1<sup>st</sup> Respondent/ 1<sup>st</sup> Defendant and of Thiru.S.Jeevanandam, B.Com., B.L., Advocate for the 2<sup>nd</sup> Respondent/2<sup>nd</sup> Defendant and upon considering all material records in this interlocutory application and hearing the submissions on both sides, and having stood over till this day for consideration, and this court doth deliver the following

**ORDER**

This petition is filed by the petitioners/plaintiffs under Order 9 Rule 4 and

S.151 of CPC seeking to set aside the dismissal order dated 12.06.2018, insofar as it relates to the 1<sup>st</sup> defendant.

02. It is stated by the petitioner that the suit against the 1<sup>st</sup> defendant came to be dismissed for non-filing of batta for issuance of summons. The petitioner submits that due to sudden illness, he was not in a position to comply with the direction of the Court. It is further submitted that the 1<sup>st</sup> defendant, being the principal borrower, is a necessary party to the suit for recovery of money and without his presence, the issues cannot be adjudicated effectively.

03. The 2<sup>nd</sup> respondent filed counter, contending that the petitioner has failed to obey the order of this Court in time, and that the present petition is only to protract the proceedings, thereby causing hardship and mental agony to the second defendant.

04. Heard learned counsels for both parties and perused the materials on record.

**05. POINT FOR CONSIDERATION:**

Whether the petition can be allowed?

**Point:**

06. The records show that the dismissal of the suit against the 1<sup>st</sup> defendant was only on account of non-compliance of a procedural requirement. The petitioner has explained the reason for such default. Considering the nature of the relief sought in the suit, and the fact that the 1<sup>st</sup> defendant is the principal borrower, his presence is necessary for complete and effective adjudication of the dispute. The objection of the 2<sup>nd</sup> defendant, though noted, cannot outweigh the need for a decision on merits.

07. In the interest of justice, this Court is of the view that the petition deserves to be allowed, subject to terms.

08. **In the result**, this petition in IA No.96/2021 in OS No.183/2017 will be allowed on payment of cost of **Rs.1,000/-** to the **District Mediation and Conciliation Centre, Erode, on or before 11.09.2025**. In default of payment within the said period, this application shall stand automatically dismissed. **Call on 12.09.2025.**

Dictated to Steno-typist, typed by him directly, and then corrected and pronounced by me in the open court, this 3rd day of September, 2025.

Principal District Judge  
Principal District Court  
Erode

Petitioners/Plaintiffs Side Witness and Exhibits: Nil

1<sup>st</sup> Respondent/1<sup>st</sup> Defendant Side Witness and Exhibits: Nil

2<sup>nd</sup> Respondent/ 2<sup>nd</sup> Defendant Side Witness and Exhibits: Nil

Principal District Judge  
Principal District Court  
Erode