

**IN THE COURT OF THE I ADDITIONAL SUBORDINATE JUDGE,
ERODE.**

PRESENT : THIRU. G. ASHOK PRASATH, B.A., B.L., M.S.E.N.,
I ADDITIONAL SUBORDINATE JUDGE, ERODE.

On Wednesday, the 22nd day of October 2025

On Thiruvalluvar Varudam 2056, Tamil Visuvavasu Year, ipasi Thingal 5th day

I.A.No.2/2025

in

O.S.No.64/2024

Chidambaram

...Petitioner/20thDefendant

/vs/

Sigamalai gounder

..Respondent/Plaintiff

This petition has come up on 16.10.2025 for final hearing before this court in the presence of Thiru.A.C.Muthusamy, learned advocate for the petitioner, and Thiru.T.Vivek, learned advocate for the respondent, upon hearing both sides, on perusal of available materials on record and having stood over for consideration till this day, this court delivers the following:-

ORDER

This Petition has been filed Under Order 9 Rule 7 and Section 151 of CPC to set aside the exparte order passed against the petitioner on 18.06.2025

2. The Brief Averments of the Petition are as follows.:-

3. It is stated that the petitioner in the petition herein and the 20th defendant in the original petition. The respondent herein filed the above suit against this petitioner and others for the relief of partition, declaration and other relief. The above suit was posted 18.06.2025 for filing his written statement. On that day this petitioner

was suffering from fever and he was unable to instruct his counsel to prepare his written statement. Resultantly on 18.06.2025 petitioner was called absent and an exparte order was passed against him. Unless the exparte order passed negligent nor careless. Under those circumstances it is necessary to setaside the against him in the above suit is set aside he would be put to serious loss and great hardship. It is therefore just and necessary that this court may be pleased to pass an order to setaside the exparte order passed against him on 18.06.2025 and receive his written statement. Hence the petition.

4. The Brief Averments of the Counter filed by the Respondent are as follows:-

5. All the allegations stated in the petition were denied as false, except that a few were admitted as true.

6. The respondents submits that in the affidavit filed in support of the present petition, the petitioner had stated that he was not feeling well and hence he was not able to attend this court or to instruct his counsel on this regard but the petitioner had not produced any documents to show that he was suffering from illness, medications prescribed, period of illness etc has not been clearly stated in the affidavit. The averments stated in the affidavit lacks clarity on the above aspects.

7. The respondents reverently submits that the petitioners appeared before this court through their counsel on 24.06.2024 and subsequently the case was posted on 22.07.2024, 28.08.2024, 25.09.2024 for the written statement of the petitioner/20th defendant. It is submitted that although the statutory time limit for the petitioner/20th

defendant to file written statement had elapsed as early as on 25.09.2024, the petitioner/20th defendant sought further time on 28.10.2024, 28.11.2024, 06.01.2025, 07.02.2025, 17.02.2025 and 15.04.2025 for filing written statement and since there was continuous failure by the petitioner in filing the written statement and the limitation for filing of the written statement also elapsed and when there were no signs of the petitioner/20th defendant filing written statement, the Court was pleased to set the petitioner herein ex-parte on 18.06.2025. The court was pleased to set the petitioner ex parte only after giving sufficient opportunities to the petitioner/20th defendant and the petitioner/20th defendant have not stated any reasons for not filing of the written statement in the previous hearings.

8. The petitioner has filed this petition only to harass the Respondent herein, delay the proceedings and play a mockery of this Court. The petitioner has not come to this court with clean hands and hence this petition is liable to be dismissed. Hence, this Petition is liable to be dismissed with costs.

9. Heard both sides. No oral and documentary evidence was adduced on either side, whether the petition deserves to be allowable or not?

On Point:

10. The petitioner side contended that the first petitioner suffered illness, due to his illness, he was unable to appear on the day of the hearing, which was 18.06.2025 hence the petitioner was called absent and set ex parte on the above-mentioned date. Whereas on the other side, the petitioner side has not furnished the medical proof of

records in respect of the petitioner on the above-mentioned date, and further, the petitioner failed to appear, for which there were no valid reasons mentioned in the petition. Here in the instant matter, the petitioner side also failed to procure the medical proof of records, and there were no particulars given about the petitioner failed to appear on the above date, for which no explanation was given from the petitioner side and the same was rightly pointed out by the respondent side and the same was also mentioned in the counter whereas the sufficient cause mentioned that the petitioner suffered from illness and the same to be taken into consideration because the petitioner assigns a good cause and the petitioner side ready to conduct the proceedings of the matter in respect of the core issues involved in the suit proceedings so on that aspect of grounds and in the interest of justice, one more chance to be given to the petitioner to contest the matter on merits. Given the above aspect of the reasons, this Petition stands allowed and No costs.

As a result, this Petition stands allowed and No costs.

Dictated to the Steno-typist and typed by him directly in the computer, corrected and pronounced by me in open court, on this the 22nd day of October 2025.

I Additional Subordinate Judge,
Erode.

Petitioner and Respondent side Witness and Documents:

-Nil-

I Additional Subordinate Judge,
Erode.

Draft/Fair Order
I.A.No.2/2025 in
OS.64/2024
Dated: 22.10.2025
I ASJC, Erode.