

IN THE COURT OF THE DISTRICT MUNSIF, SATHYAMANGALAM

**Present: Tmt.S.Susila B.A.,B.L.,
District Munsif, Sathyamangalam.**

Friday the 27th day of February 2026

I.A.No: 5/2025 in I.A.3/2024 in O.S.No:11/2024

1. M. Chinna Ponnammal
 2. M.Muthusamy
 3. M.Rukkumani
 4. M.Palaniammal
- Petitioners / 1-4 Defendants

/Vs/

1. R.Muthusamy
 2. Shankar
 3. The Sub-Registrar, Sub-Registrar Office,
Sathyamangalam
- Respondents / Plaintiff / 5th
and 8th Defendants

This petition came up for final hearing on 23.02.2026 in the presence of Thiru.K.Vinothkumar Advocate for the Petitioners / Defendants and Thiru.D.Balamurugan Advocate for the Respondents / Plaintiff and upon hearing both the sides and on perusal of the case records and having stood over for consideration till this day, this court delivers the following.

1.ORDER

The petition filed by the petitioners U/O.9 R.7and Sec.151 of CPC to set aside the exparte order passed against the petitioners side in I.A.3/2024.

2. THE AVERMENTS OF THE PETITION IN BRIEF:-

The suit is filed for the relief of declaration and permanent injunction. The 2nd petitioner is the 2nd plaintiff in the suit. The 1st petitioner is his mother and

petitioners 3 and 4 are his sisters. They are contesting the suit filed by the 1st respondent for declaration and injunction. The I.A.No.3/2024 was posted on 15.10.2025 for filing counter. On that date, the 2nd petitioner was suffering from severe right knee pain and was under treatment with bed rest. The 1st petitioner is an aged lady and unable to attend Court without assistance. Petitioners 3 and 4 were out of station. Due to the above genuine reasons, they could not appear before the Court and file counter on 15.10.2025. Hence, they were set ex parte in I.A.No.3/2024. The non-appearance was neither wilful nor wanton, but due to unavoidable circumstances. They have now filed the written statement and seek an opportunity to contest the case on merits. Hence, they pray to set aside the ex parte order dated 15.10.2025 passed in I.A.No.3/2024 and permit them to contest the matter in the interest of justice. Hence, the petition may be allowed.

3. THE BRIEF AVERMENTS OF THE COUNTER IS AS FOLLOWS:

The petition to set aside the ex parte order is false, frivolous, vexatious and not maintainable either in law or on facts. The reasons stated by the petitioners for non-appearance on 15.10.2025 are false, No medical records have been produced to substantiate the alleged illness. The petitioners were well aware of the proceedings from the date of service of summons and had appeared earlier through counsel. The records show repeated adjournments sought by the petitioners for filing counter statement. Despite several opportunities, they failed to file counter statement within the statutory period. The petitioners had filed an application under Order VII Rule 11 CPC (I.A.No.4/2024) for rejection of plaint, which was dismissed on 28.11.2024. Even thereafter, they did not file written statement and kept dragging the proceedings. More than 120 days had elapsed from the date of service of summons. As per the amended CPC, the defendants are forfeited from filing written statement beyond the prescribed period. On 15.10.2025, when the matter was called, the petitioners were absent and no counter was filed; hence they were rightly

set ex parte after sufficient opportunity. Therefore, the petitioners have not approached the Court with clean hands, and the petition is liable to be dismissed in limine with exemplary costs.

4. No oral and documentary evidence were marked.

5. POINTS FOR CONSIDERATION

Whether this petition filed for set aside the ex parte order passed against the petitioners Under/Order 9 R.7 and 151 of C.P.C has to be allowed or not?

5.1 This petition is filed to set aside the ex parte order passed on 15.10.2025 passed in I.A.No.3/2024 in O.S.No.11/2024. The petitioners contended that on the date of hearing they could not appear due to the 2nd petitioner's illness and the 1st petitioner is an aged lady and unable to attend Court without assistance. Petitioners 3 and 4 were out of station hence they were set ex parte. It is stated that the non-appearance was neither wilful nor wanton and that they are ready to contest the matter on merits. Written statement has also been filed along with the petition.

5.2 The 1st respondent strongly opposed the petition contending that sufficient opportunities were already granted, that the petitioners dragged the proceedings, and that the reasons assigned are not supported by medical records. On perusal of the records, it is seen that though there were earlier adjournments, the ex parte order was passed for non-appearance on the particular hearing date. The Court is of the view that an opportunity should ordinarily be given to the parties to contest the matter on merits. Denial of opportunity would result in multiplicity of proceedings. However, considering the conduct of the petitioners in seeking repeated adjournments, this Court is inclined to allow the petition only on terms.

6. In the result,

this petition is allowed with cost of Rs.2,000/- to be paid to the 1st respondent on or before 06.03.2026 failing which this petition stands dismissed

automatically call on 06.03.2026.

Dictated to the Steno-typist, typed by him directly in computer, corrected, printed and pronounced by me in open court on this the 27th day of February 2026.

District Munsif,
Sathyamangalam.

Petitioner side exhibits marked:- - Nil -

Respondent side evidence and exhibits marked:- -Nil-

District Munsif,
Sathyamangalam.

**FAIR ORDER
I.A.5 / 2025 in
I.A.3 / 2024
O.S.11 / 2024
27 / 02 / 2026**