

**IN THE COURT OF THE I ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.**

Present: Thiru. R. Sundara Kamesh Marthandan, M.L.,
I Additional District Munsif, Nagercoil.

Friday, on the 3rd day of January, 2025

I.A. No. 6 of 2024

in

O.S. No. 188 of 2023

CNR. No.TNKK04-000052-2023

A.T. Marthandan Alias @ A.T. Rajasekar

... Petitioner/Defendant

-vs -

The Perumal Swamy Temple

Elanthavilai Oor, Madhusoothanapuram,

South Village, Rep. by its President,

A. Subramaniam.

... Respondent/Plaintiff

This Petition came before this Court on 17.12.2024 for final hearing in the presence of Mr. T.R.Ezhamparithy, Learned Counsel for the Petitioner and Mr. A. Raveendran, Learned Counsel for the Respondent. Upon hearing both sides and Upon perusing the case records and having stood over, till date for Consideration, this Court hereby delivers the following:

ORDER

1. The Petitioner had filed the above Petition under Order IX, Rule 7 and Section 151 of Code of Civil Procedure, seeking an order to set aside the exparte order passed against the Petitioner on 03.10.2024.

2. The Petitioner had stated that on 03.10.2024 the case was posted for filing Written Statement and that the Petitioner was hospitalized, because of illness. Hence he could not appear before this Court, to file Written Statement. His non-appearance is neither wil-full nor wanton, it is only due to his illness. The Petitioner is ready to file the Written Statement, before this Court. Therefore the exparte order passed against the Petitioner has to be set aside. Hence the above Petition.

3. The Respondent had filed counter stating that inspite of giving sufficient time, for filing Written Statement, the Petitioner/Defendant had not come before this Court and filed Written Statement. The averments stated in the Petition, is not acceptable. The Petition is liable to be dismissed. The Petition is devoid of merits, not maintainable in law and facts, the same has been filed, in order to prolong the case. The Petitioner has not filed Written Statement wantonly. Hence the Respondent prayed for dismissal of the above Petition.

4. The Point for consideration is Whether the above Petition is liable to be allowed or not?

5. As pleaded by the Petitioner, on 03.10.2024, when the case was posted for filing Written Statement, the Defendant had not filed Written Statement. However there was representation on his behalf, seeking time, for filing Written Statement. The same was declined by this Court. The Petitioner/Defendant was set exparte. Now that the Petitioner had come before this Court, stating he was hospitalized because of his illness. The same is denied by the Respondent/Plaintiff. No document to

substantiate, the claim of illness and hospitalization is filed. The suit of the year 2023 and that the Petitioner/Defendant had stated that he is ready to file Written Statement. Considering the same this Court is of the considered view, that the above Petition could be allowed on terms, so that the above suit, could be disposed on merits.

In the result, the above Petition is allowed on condition, the Petitioner pays a sum of Rs.1000/- (Rupees One Thousand Only) to the Respondent on or before 30.01.2025 call on 31.01.2025.

Dictated to the Steno-Typist, transcribed and typed by her in the Computer, corrected and pronounced by me, in open Court this, the 3rd day of January, 2025.

I Additional District Munsif,
Nagercoil.

Petitioners' side witnesses & documents : Nil.

Respondent's side witnesses & documents : Nil.

I Additional District Munsif,
Nagercoil.

*I ADM Court, Nagercoil.
Draft/Fair Order in
I.A.No.6/2024 in
O.S.No.188/2023
Date:03.01.2025.*