

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

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

Thursday, on this the 20th day of July 2023

I.A. No.7 of 2021

in

I.A. No.2 of 2019

in

O.S. No.90 of 2018

Y.Kala ... Petitioner/1st Respondent/1st Plaintiff

-vs-

1. P. Paulthurai ...1st Respondent/Petitioner/
Power holder of Defendants 2 & 3

2. A.Jebin Jino

3.A.Augustina Jenisha ...Respondents/Plaintiffs 2 & 3

4.V.Augustine Selvakumar ...Respondent/1st Defendant

This Petition came up before this Court on 04.07.2023 in the presence of Mr. G.Prakash Edmin Kumar, Advocate for the Petitioners/Plaintiffs and Mr. S.Wesly, Advocate for the 1st Respondent/Defendant and 2 to 4 Respondents were set exparte and upon perusing the case records and having stood over till date for Consideration, this Court delivers the following:

ORDER

1. The Petitioner had filed the above petition under Order IX Rule 7 and Section 151 CPC seeking an order to set aside the exparte order dated 05.02.2020 passed against the Petitioner in I.A.No. 2 of 2019.

2. The Petitioner had stated that on 05.02.2020 the said I.A.No. 2 of 2019 was posted for counter. However as the Petitioner suffered headache and fever, she was not able to present before this Court and that the Petitioner had misunderstanding with her previous Advocate. As such, there was no representation. Hence the Petitioner was called absent and set exparte. Unless the said exparte order is set aside, the Petitioner will be put to irreparable loss and hardship.

3. The Respondent had filed counter stating that the above petition is not maintainable. Without any valid contentions to object I.A.No. 2 of 2019, the petition averment that the Petitioner had misunderstanding with her Counsel and that she had headache and fever is denied as false and untenable. The said averments are not supported with any documents. Hence the Respondent prayed for dismissal of the above petition.

4. The Point for Consideration is whether the above petition has to be allowed or not?

5. The Petitioner had stated that the 1st Petitioner had headache and fever and that there was some misunderstanding with Petitioners' earlier Counsel. However the Petitioners have not filed any documents to substantiate their contention and as to the non availability of the other Petitioners, before this Court on 05.02.2020. Further on perusal of the docket in I.A.No. 2 of 2019, it could be seen that the said I.A.No. 2 of 2019 is still pending on the file of this

Court. In such circumstances, this Court is of the considered view that the above petition could be allowed on terms.

In the result, the above petition is allowed on condition the Petitioners pays a sum of Rs. 500/- (Rupees Five Hundred only) to the Respondent on or before 30.07.2023. Call on 31.07.2023.

Dictated to the Typist, and typed by her directly in computer, corrected and pronounced by me, in Open Court this, the 20th day of July, 2023.

I Additional District Munsif,(FAC)
Nagercoil.

Petitioner side witnesses and documents : Nil

Respondents side witnesses and documents : Nil

I Additional District Munsif,(FAC)
Nagercoil.

I.A. No. 2 of 2019
in
O.S. No. 90 of 2018
Draft/Fair Order
Date: 20.07.2023.
IADM, Nagercoil.