

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Tmt. M.Alima, B.A., L.L.M.,

Principal District Munsif, Nagercoil.

Wednesday, on the 8th day of January, 2025.

I.A. Nos.7 of 2024 & I.A.No.9 of 2024 in I.A.No.3 of 2024 in

O.S.No. 47 of 2024

1. C.S.I. Kanyakumari Diocese,

Rep. by its Bishop

2. The Bishop C.S.I. Diocese

Kanyakumari Diocese, Nagercoil

3. The Pastorate Chairman,

C.S.I. Church, Kariyavilai

4. The Secretary,

C.S.I. Church, Kariyavilai.

... Petitioners / 2 to 5 Defendants

-Vs-

1. Communicant Members of the C.S.I. Church

Kariyavilai, represented by S. Jeyachandran

2. S. Jeyachandran

3. D. Sunil Prakash

... Respondents/Plaintiff/

1st defendant

These petitions came before this court on 04.01.2025 for a final hearing in the presence of Thiru. J.J. Chandra Mohan, Advocate for the Petitioners/2 to 5 Defendants and Thiru. R. Raja Ganapathi, Advocate for the 1st and 2nd respondents/Plaintiffs and Thiru. T. Dhanapaul, Advocate for the 3rd

respondent/1st defendant and upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

COMMON ORDER

Prayer in I.A. No. 7 of 2024:

The petitioners have filed the above petition under Order IX Rule 7 and Section 151 Code of Civil Procedure, seeking to set aside the ex parte order passed against the petitioners/2 to 5th Defendants on 04.10.2024 and thus render justice.

Prayer in I.A. No. 9 of 2024 in I.A.No.3 of 2024 :

The petitioner have filed the above petition under Order IX Rule 7 and Section 151 Code of Civil Procedure, seeking to set aside the ex parte order passed against the petitioners/2 to 5th Defendants in I.A.No.3 of 2024 on 04.10.2024 and thus render justice.

2) Gist of Averments in the Petitioner/Plaintiff's Petitions :

The petitioner is the 2nd and 3rd defendants in this suit and petitioner know the facts of the case. The petitioner filed this affidavit for petitioner and on behalf of the 4th and 5th defendants also. The petitioner was conducting the case on behalf of the 4th and 5th defendants. The case was posted on 04.10.2024 for filing written statement and counter of I.A.No.3 of 2024 of the 2 to 5th respondents/defendants and on that day from the 2 to 5th respondents/2 to 5

defendants side no written statement and no counter in I.A.No.3 of 2024 was filed. Therefore the 2 to 5th respondents/2 to 5 defendants were called absent and set exparte for non filing of their written statement and counter by this court. On 04.10.2024 the 2 to 5th respondents/2 to 5 defendants were not in the station therefore they were unable to file their written statement and counter in I.A.No.3 of 2024. Further some of the documents related to this case was not available on 04.10.2024. Therefore for the above said reasons the written statement was not filed on 04.10.2024. Therefore the exparte order passed on 04.10.2024 against the 2 to 5th defendants has to be setaside by this court. Otherwise, great loss and prejudice will be caused to the petitioner/2 to 5 defendants. Hence, these petitions are to be allowed.

3. The 1 to 3 Respondents Counsel endorsed “ No Counter ” in this petition.

4) The point for consideration is whether the above petitions have to be allowed or not?

5) **Point:**

Heard both sides. Records perused. This Court considers the submissions of both counsels and peruses the materials on records. On perusal of records, the original suit has been filed by the 1st and 2nd Respondents/plaintiffs against the Petitioners / 2 to 5 Defendants and 3rd respondent/1st defendant for the relief of

declaration and mandatory injunction and permanent injunction.

6) In spite of the fact that the reason, the petitioners non-appearance in this court on 04.10.2024 for filing the written statement and for filing the Counter in I.A.No.3 of 2024 has been stated in the petition, as petitioners were not in the station therefore they were unable to file their written statement and non filing the counter in I.A.No.3 of 2024 on 04.10.2024. Further some of the documents related to this case was not available on 04.10.2024. Therefore for the above said reasons the written statement and non filing the counter in I.A.No.3 of 2024 was not filed on 04.10.2024.

7) No oral or documentary certificate has been filed by the petitioners in this court to prove the above reason. Therefore, the plea raised by the petitioners in these petitions are not acceptable to this Court.

8) However, for a complete judicial determination of the original case, it is necessary to grant permission to the petitioners / 2 to 5 Defendants side to file a written statement and counter in I.A.No.3 of 2024; hence, in the interest of justice, this Court inclined to allow these petitions on conditional cost.

9) As a result,

I.A. No. 7 of 2024

This petition is allowed, on the condition that the petitioners shall pay a sum of Rs.200/- (Rupees Two Hundred only) payable to the Mediation and

Conciliation Centre, Kanniyakumari at Nagercoil on or before 24.01.2025.
otherwise, this petition would be dismissed. Call on 24.01.2025.

I.A. No.9 of 2024 in I.A.No. 3 of 2024

This petition is allowed, on the condition that the petitioners shall pay a sum of Rs.200/- (Rupees Two Hundred only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 24.01.2025.
otherwise, this petition would be dismissed. Call on 24.01.2025.

Dictated to the Steno-Typist, and typed by her directly in the Computer,
corrected and pronounced by me, in open court this, the 8th day of January 2025.

Principal District Munsif
Nagercoil.

Petitioners side witnesses and documents : Nil.

Respondents side witnesses and documents : Nil.

Principal District Munsif
Nagercoil.

Draft/Fair Order
I.A.No. 7/2024 &
I.A.No. 9/2024 in I.A.No. 3/2024 in
O.S.No.47/2024
Date: 08.01.2025