

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

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

I Additional District Munsif, Nagercoil.

Saturday, on the 16<sup>th</sup> day of December 2023.

**I.A. No. 4 of 2023 in O.S. No. 190 of 2022**

1. The Co-operative Sub Registrar,  
Nagercoil.
2. The Deputy Registrar  
of Co-operative societies,  
Nagercoil.
3. The Regional Joint Registrar  
of Co-operative societies,  
Nagercoil.
4. The Registrar of Co-operative Societies,  
Chennai. ... Petitioners / 5 to 8 Defendants

-vs-

1. C. Jerold Singh,  
Rep., by his Power of Attorney Holder, S. Madhavan.  
... 1st Respondent / Plaintiff
2. Jayanthi
3. Christhudhas
4. The Secretary,  
Theroor Primary Agricultural Co-operative Credit Society Ltd.,
5. The President,  
Theroor Primary Agricultural Co-operative Credit Society Ltd.  
... 2 to 5 Respondents / 1 to 4 Defendants

This petition came before this court on 13.12.2023 for a final hearing in the presence of Mr. C. Johnson, Government Pleader for the Petitioners/5 to 8 Defendants, Mr. V. Deva Prasanna, Advocate for the 1st Respondent/Plaintiff and Mr. S. John Milton, Advocate for the 2nd and 3rd Respondent / 1st and 2nd Defendants have endorsed no counter in this petition on 16.10.2023. 4th & 5th Respondents / 3rd and 4th Defendants are already ex parte in suit. Upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

### **ORDER**

The petitioner had filed the above petition under Order 9, Rule 7, and Section 151 of CPC, seeking to set aside the ex parte order passed against the petitioners to 8 Defendants on 22.12.2022.

**1. Gist of Averments in the Petition filed by the Petitioners/5 to 8 Defendants:**

The petitioner stated that, on 22.12.2022 the suit case was posted for appearance of the petitioners. Due to other official work, the petitioners are unable to appear before this court and also contact their government pleader. The non-appearance of the petitioners is neither willful nor wanton. Therefore, to set aside the ex parte order passed against the petitioners /5 to 8 defendants on 22.12.2022. If not, so much prejudice will be caused to the petitioners. Hence, the petition is to be allowed.

**2. Gist of Averments in the Counter filed by the 1st Respondent / Plaintiff:**

The respondent stated that the petition is not maintainable under law or on facts. The petitioner did not come to court with clean hands and suppressed the material facts. The respondent/plaintiff filed the suit urgently and prayed for an interim injunction on 31/10/2022. After receiving the summons, the petition has taken 194 days to file its vakalath. As such, it is crystal clear that they have no defense at all and only delay the proceedings. The reasons stated in the affidavit are not correct and are denied. It is only for support of the petition. Hence, the petition is to be dismissed.

2nd and 3rd Respondent / 1st and 2nd Defendants have endorsed no counter in this petition on 16.10.2023.

**4. The point for consideration is whether the above petition has to be allowed or not?**

**5. Point:**

The learned counsel for the petitioner submits that, on 22.12.2022 the case was posted for the appearance of the petitioners/ 5 to 8 defendants. Due to other official work, the petitioners are unable to appear before this court and also contact their Government Pleader. The non-appearance of the petitioners is neither willful nor wanton. Hence, he claimed to be allowing this petition.

6. The learned counsel for the 1st respondent submits that the 1st respondent/plaintiff filed the suit urgently and prayed for an interim injunction on 31/10/2022. After receiving the summons, the petition has taken 194 days to file. As such, it is crystal clear that he has no defense at all and only delays the proceedings. Therefore, he claimed to be dismissed.

7. This Court considers the submissions of both counsels and peruses the materials on record. The original suit was filed by the 1st respondent/plaintiff against the defendants for the relief of a mandatory injunction and other reliefs.

8. In spite of the fact that the reason for the petitioner's non-appearance in this court on 22.12.2022 has been stated in the petition as other official work, no oral or documentary evidence has been filed by the petitioner in this court to prove the above reason. Hence, the reason mentioned in the petition was not acceptable. However, for a complete judicial determination of the original case, it is necessary to grant permission to the petitioner to file a written statement; hence, in the interest of justice, this Court inclines to allow this petition with costs.

9. As a result, this petition is allowed. No costs.

Dictated to the Typist, and typed by her, corrected and pronounced by me, in open court this, the 16<sup>th</sup> day of December, 2023.

(Sd)/-M.Alima  
I Additional District Munsif,  
Nagercoil.

Petitioner side witnesses and documents : Nil.

Respondent side witnesses and documents : Nil.

(Sd)/-M.Alima  
I Additional District Munsif,  
Nagercoil.

*Draft/Fair Order  
I.A.No. 4/2023 in  
O.S.No.190/2022  
Date: 16.12.2023.  
I ADM, Nagercoil.*