

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

Present: Tmt. M.Alima, B.A., L.L.M.,
Principal District Munsif, Nagercoil.

Friday, on the 27th day of September, 2024.

I.A. No. 3 of 2024 in O.S. No. 21 of 2024

1. The Tahsildar,
Agasteeswaram Taluk.

2. The District Collector,
Kanyakumari District,
Nagercoil.

... Petitioners / Defendants

- Vs -

P. Perumal

... Respondent/ Plaintiff

This petition came before this court on 25.09.2024 for a final hearing in the presence of Mr. C. Johnson Government Pleader for the Petitioners/Defendants and Mr. Lawrence Peter Shaw Advocate for the Respondent/ Plaintiff. Upon perusing the case records and having stood over till date for consideration, this Court delivers the following:

ORDER

The petitioners had filed the above petition under Order 9 Rule 7 and Section 151 of the CPC, seeking to accept this petition and pass an order to set aside the ex parte order dated 11.03.2024 against the Petitioners/Defendants.

1) Gist of the Averments in the Petitioner's Petition:

The Petitioners/Defendants stated that, plaintiff had filed the above suit for a mandatory injunction and other reliefs over the plaint schedule property. The suit was posted for PW1 Chief continuation and the 1st plaintiff has been examined as PW.1. But due to unavoidable circumstance we could not file written statement and consequently we were set *ex parte* on 11.03.2024. There is no willful default on our part. We are greatly aggrieved by the *ex parte* order against us. If the *ex parte* order passed against us is not set aside and our opportunity to cross examine PW1 will be denied, we will be put into great hardship, loss and inconvenience. In the above circumstances the *ex parte* order may be set aside and PW1 may be recalled and suit may be disposed of on merits. Our Advocate therefore file an application for the above purpose and the same may be allowed. All the facts stated above are true and correct to the best of my knowledge, belief and information. Hence, the petition is to be allowed.

2) Gist of the Averments in the Respondent/ Plaintiff Counter :

The respondent stated that all the averments of the petition are denied except those that are specifically admitted or otherwise dealt with here under are denied as false. This petition is not maintainable before in law or on facts. The petitioner/Defendant has filed the petition to set aside the *ex parte* order passed on 11.03.2024. The reason stated in the affidavit shall not sustain before law. The case is set *ex parte* only at the stage of PW1 cross examination. The petitioner filed this petition to drag on the proceedings. The petitioner filed this petition to get an order

in his favour by misleading this Honourable court. The petition is not maintainable before law and facts. The petitioner approaches this court without clean hands. Hence, the respondent prays to accept this counter and dismiss the petition.

3) The point for consideration is whether the above petition has to be allowed or not?

4) ***Point:***

Heard both sides, and records were perused.

5) This Court considers the submissions of both counsels and peruses the materials on record. On perusal of records, the original suit has been filed by the Respondent/plaintiff against the petitioners/defendant for relief of mandatory injunction, and other reliefs.

6) In spite of the fact that the reason for the petitioners non-appearance in this court on 11.03.2024 have been stated in the petition as due to unavoidable circumstance we could not filed written statement, 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 this petition is not acceptable to this Court.

7) However, for a complete judicial determination of the original case, it is necessary to grant permission to the petitioners side to file written statement. Hence, in the interest of justice, this Court inclines to allow this petition on coditional cost.

8)As a result, this petition is allowed on the condition that the petitioners shall pay a sum of Rs.500/- payable to the Respondent on or before 30.09.2024; otherwise, this petition would be dismissed. Call on 30.09.2024.

Dictated to the Steno-Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 27th day of September, 2024.

Sd/-

Principal District Munsif,
Nagercoil.

Petitioner side witnesses and documents : Nil.

Respondent side witnesses and documents : Nil.

Sd/-

Principal District Munsif,
Nagercoil.

PDM Court, Nagercoil.
Draft/Fair Order
I.A.No.3/2024 in
O.S.No.21/2024
Date: 27.09.2024