

**IN THE COURT OF THE SPECIAL COURT FOR FOREST OFFENCE
CASES, NAGERCOIL.**

**Present : Tmt. C. Kalaiyarasi Reena, M.L.,
Special Judge, Nagercoil.**

Thursday, the 12th day of March, 2026.

E.A.No.1/2025

in

E.P.No.109/2025

in

Arb.No.82/2015

Sivakumar

.....Petitioner/ 1st respondent

-Vs-

1. M/S. Shriram Transport Finance Co. Ltd,
Rep. by its power of attorney holder
Thiru.K.Sasi Kumar.

2. Jenitha Babu

.....Respondents/Petitioner/
2nd respondent

This Petition having coming up for final hearing before me on 6.3.2026 in the presence of Thiru.R.Pravin, Advocate for the Petitioner and Thiru.T.S.Chandrasekhar, Advocate for the Respondents and upon perusing the case records having stood over for consideration till this day, this court delivers the following ;

ORDER

This petition is filed by the petitioner/1st respondent under Order XXI Rule 106 of C.P.C., to set aside the Exparte Order dated 21.2.2024.

2. The case of the petitioners in brief :

The petitioner is 1st respondent in the EP. The respondent filed the EP for attachment and sale of schedule property. The petition was posted on 21.02.2024 for

the petitioner's side appearance. But, due to the illness of petitioner, the petitioner could not able to attend the court at that time. Non-appearance of petitioner to appear before this court on 21.02.2024 is not willful and wanton. Hence, the petitioner prays to set aside the exparte order passed against petitioner.

3. **Brief Averments of the Counter Statement :**

The 1st Respondent/Decree Holder would submit that the petitioner had not filed this petition in proper time. The present petition is filed to prolong the execution petition. The reason mentioned in the petition cannot be accepted as petitioner has not filed any Medical Certificates. Since the petition which does not contain bonafide reasons to set aside the exparte order, hence, the petition is liable to be dismissed.

4. **Point for consideration:**

Whether the petitioner/ Judgment Debtor is entitled for the relief of setting aside the Exparte Order dated 21.2.2024 ?

5. No Oral or Documentary Evidence let in on both sides. Both side contentions and Case Records carefully perused. Both sides heard. The Execution Petition is filed for execution of Arbitration Order. Further it has been stated that the due to the illness of petitioner, he could not appear before this court. Further, the exparte order against the petitioner passed by this court on 21.2.2024, but the present petition is filed only on 23.06.2025.

As per the Order 21 Rule 106 (3) – An application to set aside the exparte order to be filed within 30 days from the date of order, when notice not duly served, from the date when the applicant had knowledge of the order. But, in the present case, on careful perusal of both the court and postal summon to the petitioner shows that postal summon and court summon got served, which is the duly served summons to the petitioner. Hence, summons to the petitioner/Judgment Debtor are duly served

and on his absence in appearance before this court, he got set exparte by the order dated 21.2.2024. Hence the limitation period for setting aside the exparte order is within 30 days from the date of the order. The exparte order passed on 21.2.2024 and the petition for setting aside the exparte order filed on 23.06.2025 after the expiry of the limitation period. Hence this petition is barred by limitation. Hence, considering the plea and documents of the case this court not found any bonafide sufficient reasons to set aside the exparte order and the petition is barred by limitation, hence this petition is liable to be dismissed. No Costs.

6. In the result, this petition is dismissed. No costs.

Dictated to the steno-typist and typed by her directly, corrected and pronounced by me in open court, this the 12th day of March, 2026.

Special Judge,
Nagercoil.

Appendix:-

Petitioner's side Exhibits – Nil

Respondent side Exhibits – Nil

Special Judge,
Nagercoil.