

IN THE COURT OF THE SUBORDINATE JUDGE, ERANIEL.,

Present: Thiru .K. Selvapandi, B.A., B.L.,
Subordinate Judge, Eraniel.

Saturday, the 16th day of September 2023.

I.A.No.6 /2023 in I.A.No.3/2022 in OS.No.47/2022

T. Prabhu ... petitioner/ Defendant

. Vs.

C. Varadharajan ... Respondent/ Plaintiff

This petition coming on for final hearing before me on 28.07.2023 in the presence of Thiru. C.Mohan Raj, Advocate for the petitioner and of Thiru. Ashok Padmaraj, Advocate for the Respondent and upon hearing the arguments of both sides and upon perusing the records and having stood over for my consideration till this day, this court made the following

ORDER

Heard both sides. Perused the records.

2. This is a petition filed by the petitioner/ Defendant seeking for set aside the exparte order passed against him on 26.10.2022.

3. Admittedly the respondent/plaintiff has filed the main suit against the petitioner seeking for demarcation and other reliefs. On 26.10.2022 the petitioner was decided exparte as he failed to appear before this court though summon was served on him.

4. Now the petitioner has filed this petition stating that since he was working in B.S.F. at West Bengal, he was unable to appear before this court and to meet his advocate and he could not file vakalath and written statement on that day.

5. The respondent/plaintiff resisted the application on the ground that the reason is vague and flimsy.

6. This is only the petition to set aside the exparte order. The petitioner was decided exparte on 26.10.2022 and this petition has been filed by the petitioner along with adoption memo adopted his return as counter. Hence this court is of the view that in the interest of justice and in order to give one more opportunity to the petitioner to contest the suit on merits, this petition can be allowed. No prejudice will be caused to the respondent if the delay in proceedings is compensated by way of cost.

In the result, this petition will be allowed on payment of cost of Rs.1,000/-to be paid by the petitioner to the respondent on or before 25.09.2023. Call on 26.09.2023.

Dictated by me to the Steno-typist and typed by her in the computer, corrected and pronounced by me in open court, this the 16th day of September 2023.

**Subordinate Judge,
Eraniel.**