

**IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, KULITHALAI**

**Present : Selvi.A.Yughathymariya, B.Com, L.L.B.(Hons.,)**

**Additional District Munsif, Kulithalai.**

**Dated Monday, the 10<sup>th</sup> day of November 2025**

**I.A No.02/2025 in O.S No.116/2024**

1) Srinivasan

2) Durairaj

3) Gopal

4) Kaliyammal

**...Petitioners/Defendants**

**- Vs -**

1) Govindaraj

**...Respondent/Plaintiff**

This petition has come up for final hearing on 23.10.2025 before this Court in the presence of Mr.R.M.Senthil, the Learned Counsel appearing for the Petitioners and in the presence of Mr.R.Moorthy, the Learned Counsel appearing for the Respondents, upon perusal of material records and having stood over for consideration till this day, this court delivers the following:

**ORDER**

This petition is filed by the Petitioners/Defendants under Order 9, Rule 7 r/w Section 151 of CPC in order to set aside the exparte order passed against the Petitioners/Defendants in the above suit dated 03.03.2025.

**Brief averments in the affidavit:**

2) The 1<sup>st</sup> Petitioner is the 1<sup>st</sup> Defendant in the above suit. This petition has been filed on behalf of the other Petitioners as well. The Respondents/Plaintiffs had filed a suit for Permanent Injunction against the Petitioners/Defendants. The above suit was posted for exparte evidence on 10.07.2025. The Petitioners are all appeared through

one counsel in the above suit. After that, there is no communication between the Petitioners and the earlier counsel for filing of the written statement and for non filing of the written statement, this Court has passed an order thereby setting the Defendants ex parte on 03.03.2025.

3) On the day of the order of ex parte, the Petitioners were not present, as they have all gone to attend one condolence on that day of hering. Further more, the earlier counsel who appeared on behalf of the Petitioners have not communicated the further proceedings of the above suit. The Petitioners are all rustic villagers and are not able to follow the case as they have no such knowledge about the Court proceedings. However, the Petitioners have got knowledge through the local villagers that they are set ex parte in the above suit as ordered by this Court, for which immediately they rushed to this Court and appointed a new counsel. The new counsel has instructed to file this petition along with counter and written statement in the above suit. The mistake committed by the Petitioners is due to inadvertence and on illiterate manner, hence may be considered and decided on merits. The Respondent had created fake document against the Petitioners and filed this frivolous suit in order to grab the property from the Petitioners. No prejudice will be caused to the Respondent by allowing this petition. If this petition is not allowed, the Petitioners will be greatly prejudiced. Hence, this petition to set aside the ex parte order passed against the Petitioners on 03.03.2025.

**Brief averments in the counter filed by the Respondent:**

4) The Petitioners are not entitled to the relief sought for in this petition. All the averments contained in the petition affidavit are unsustainable in law and on facts and the Petitioners are bound to prove the same very strictly. The reasons stated by the Petitioners in their affidavit are not correct. The Petitioners have purposively avoided to appear before this Court and the reasons stated by the Petitioners herein to set aside the ex parte order passed against them is not acceptable. Hence, this petition is liable to be dismissed.

**Point for determination:**

5) Whether the exparte order dated 03.03.2025 passed against the Petitioners in the above suit is liable to be set aside or not?

**Evidence:**

6) There is no oral and documentary evidence adduced on either side.

**Discussion:**

7) Heard both sides. Records perused. Upon perusal of records, it is seen that the above suit has been filed by the Respondent/Plaintiff against the Petitioners/Defendants for the relief of Permanent Injunction in respect of the suit property. Admittedly, it is seen that the Defendants/Petitioners herein have been served with the summons and they appeared in person and also represented through a counsel. Despite sufficient opportunities as prescribed by law have been given to the Defendants for the purpose of filing written statement, the Defendants/Petitioners herein have failed to file their written statement in the above suit within the statutory period. Hence, on 03.03.2025 this Court has passed an exparte order against the Defendants in the above suit as they have failed to file the written statement and they are called absent.

8) Thereafter, the above suit has been posted for exparte evidence and pending the same, this petition has been filed by the Petitioners/Defendants along with their written statement.

9) The major contentions that has been raised by the Petitioners are that the Petitioners are local villagers and they have no knowledge about the Court proceedings. They further contended that they had engaged a counsel and there is no proper communication between the Petitioners and their earlier counsel for which they have not able to file their written statement in the above suit on time. The

Petitioners have also contended that they have come to know about the ex parte order passed by the Court against them in the above suit only through the local villagers. They also alleged that thereafter they rushed to the Court by engaging a new counsel and they are now filing this petition along with their written statement.

**10)** Per contra, the major objection that has been raised on the side of the Respondents is that the reasons stated by the Petitioners in their affidavit are not correct and they are not acceptable. Hence, the Respondent sought this Court to dismiss this petition. Upon consideration of the pleadings of the both parties, this Court is of the view that parties must be given opportunities to proceed with and contest their cases on merits rather than allowing the parties to be defeated on such technical irregularities. The reasons stated by the Petitioners/Defendants in not filing their written statement is found to be proper and good and acceptable by this Court. The lack of knowledge and improper communication between the Petitioners and the earlier counsel which resulted in non filing of their written statement is found acceptable by this Court. This apart, there is no specific objection made on the side of the Respondent. However, this Court is of the view that the Respondent herein has been put to inconvenience for the delay caused on the side of the Petitioners in filing this petition. Therefore, in order to balance the equities, this Court is inclined to allow this petition with costs as a condition.

**Result:**

In the result, with the above observations, this petition is allowed in the interest of justice and on merits. The ex parte order passed against the Petitioners/Defendants in the above suit dated 03.03.2025 is hereby set aside. The Petitioners are hereby directed to pay a costs of Rs.500/- to the Respondent herein, on or before 16.11.2025 failing which this order shall stand automatically vacated.

Dictated to my steno-typist, taken down by her in short hand and typed by her in the computer, corrected by me and pronounced by me in the open court on this the 10<sup>th</sup> day of November 2025.

**Additional District Munsif,  
Kulithalai.**

Petitioners side witness and documents - Nil.  
Respondent side witness and documents - Nil.

**Additional District Munsif,  
Kulithalai.**