

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, KULITHALAI

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

Additional District Munsif, Kulithalai.

Dated Friday, the 20th day of February 2026

I.A No.06/2026 in O.S No.108/2022

Helan Rubi

...Petitioner/Defendant

- Vs -

Jaisankar

...Respondent/Plaintiff

This petition has come up for final hearing on 18.02.2025 before this Court in the presence of Mr.M.Balaji, the Learned Counsel appearing for the Petitioner/Defendant and in the presence of Mr.R.Krishnaswamy, the Learned Counsel appearing for the Respondent, upon perusal of material records and having stood over for consideration till this day, this court delivers the following:

ORDER

This petition has been filed by the petitioner/defendant under Order 9 Rule 7 r/w section 151 of CPC to set aside the exparte order passed against her dated 10.09.2025 in the above suit.

Brief averments in the Affidavit:

2. The petitioner states that she is the defendant in the main suit. That the above suit was posted on 10.09.2025 for cross examination of PW1 on the side of the Defendant. On the above date, the Petitioner could not be able to come to this Court due to her illness. An exparte order has been passed by this Court as the Petitioner was not able to appear before this Court on the above date. After the same, within the reasonable time this petition to set aside the exparte order could not be filed by the Petitioner due to her work pressure. The above mistake is neither intentional nor

wanton and the same may be condoned. The Petitioner has good case in the above suit. In order to prove the case of the Petitioner, it is necessary in the interest of justice to set aside the exparte order passed against her. If this petition is not allowed, the Petitioner will be put to irreparable loss and hardships. Hence this petition.

Brief averments in the Counter filed by the Respondent :

3. The respondent state that the allegations contained in the affidavit filed by the petitioner are all false and are been denied by the respondent herein. The Petition is filed only to procrastinate the proceedings. The allegations in para no.3 and 4 of the affidavit are meaningless, false, frivolous and denied. This petition is filed only to delay the proceedings. If this petition is allowed, the respondent will be put to irreparable loss and hardships. Hence this petition liable to be dismissed.

Point for determination:

4. Whether the petitioner is entitled to the relief as prayed for or not?

Evidence:

5. No oral and documentary evidence were adduced on either side.

Discussion:

6. Heard. Perused records. Upon perusal, it is seen that this Court has passed an exparte order against the Petitioner/Defendant in the above suit on 10.09.2025 for the reason that despite sufficient opportunities given to the Defendant, the Defendant did not turn up before this Court for the cross examination of PW1. Hence, this petition has been filed to set aside the exparte order passed against the Defendant in the above suit. The major contention raised by the Petitioner is that she was not well when the above suit was posted for cross examination of PW1 on the side of the Defendant and hence, she could not make her presence before this Court. Petitioner also contended that she was not intentionally absent on the above said date and sought this Court to set aside the exparte order in the interest of justice by condoning the delay.

7. Per contra, on the side of the Respondent/ Plaintiff it was mainly objected that this petition has been filed only to drag on and delay the above case proceedings. Hence, the Respondent sought this Court to dismiss this petition.

8. This court, on careful perusal of the affidavit and the counter and the submission of both parties, is of the view that it is an established principle of natural justice that no party should be condemned unheard and effort must be made to ensure that the disputes are adjudicated on their merits rather than on technicalities, unless the conduct of the party demonstrates a deliberate intent to obstruct justice. Whereas, Order 9 Rule 7 of CPC provides that when the court has adjourned the hearing of the suit exparte and the defendant, at or before such hearing assigns good cause for his previous non-appearance, he may upon such terms as the court directs, be heard.

9. Being so, the reason assigned by the petitioner/defendant for not proceeding with the cross examination of PW1 in the above suit is found acceptable and satisfactory and is a good cause. Therefore, this Court is of the view to allow this petition to meet out the ends of justice.

Result:

Accordingly, this petition is allowed in the interest of justice. The exparte order dated 10.09.2025 passed against the petitioner/defendant in the above suit is hereby set aside. No costs.

Dictated to my Steno-typist, directly typed by her in the Court computer, corrected and pronounced by me in this open court on this the 20th day of February 2026.

**Additional District Munsif,
Kulithalai.**

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

**Additional District Munsif,
Kulithalai.**