

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, THIRUMANGALAM

Present: Thiru. C.Dineshkumar, M.A., B.L.,

Principal District Munsif, Thirumangalam

Thursday, the 1st day of September 2022

I.A.No.36/2022

in

O.S.219/2017

1. G.Sundaramoorthy

2. G.Sundarapandi

... Petitioners / Defendants

-Vs-

K.Paraman

... Respondent / Plaintiff

This Petition coming on 10.08.2022 before me for final hearing in the presence of Counsel Thiru.A.Sababala Murugan, Advocate for the Petitioners and Thiru.N.Namasivayam, Advocate for the Respondent and upon perusing the Petition, counter and the entire materials available on the records before this Court and having stood over for consideration till this day, this Court delivers the followings

ORDER

This Petition has been filed under Order 9 Rule 7 and Section 151 of C.P.C. to set aside the exparte order passed by this Court in O.S.No.219/2017.

2. THE POINT FOR DETERMINATION:

Whether this Petition has to be allowed or not?

3. The entire case records were perused carefully and both the sides were heard.

4. ARGUMENTS:

4.1 The learned counsel for the Petitioners argued that, the Petitioners have been set exparte on 18.02.2021 for non filing of written statement and their absence was neither willful nor wanton and they were unable to meet his counsel due to Corona Pandemic and thus they were not able to attend the Court and file the written statement and prayed for allowing this application.

4.2 On the other hand, the learned counsel for the Respondent argued that the contention of the Petition are not true and this petition has been filed to cause delay in the proceedings and further argued that the contention of the petition are not proved and prayed for dismissal.

5. On perusal of records, it could be seen that the Petitioners have been set exparte on 08.02.2021, for non filing of written statement and the application for setting aside the exparte order passed against them has been filed on 22.02.2022, while the suit is still pending.

6. The Limitation Act provides no limitation for filing exparte set aside application, while the main suit is pending and therefore, this petition has been filed well within the limitation prescribed by the code.

7. Further, it was contended by the Respondent's side that this petition has been filed to cause delay. This petition has been filed while the suit is pending and the written statement has been filed by the Petitioners along with this petition. Therefore, the contention of the Respondent that this petition has been filed to cause delay in the proceedings cannot be accepted. Thus, this Court is inclined to give another opportunity for the Petitioners to defend the case, in order to decide the case on merits with terms.

As a result, this petition is allowed on a cost of Rs.500/-, which shall be paid to the Respondent side on or before 26.09.2022, failing which, this petition will be deemed to be dismissed.

Dictated by me to the Steno typist directly in the office computer and the same was corrected by me and pronounced in the open Court on this 1st day of September 2022.

(Sd.C.Dineshkumar)
Principal District Munsif

Thirumangalam

I.A.No.36/2022
in
O.S.No.219/2017
Fair-Order
D.D.01.09.2022.