

**IN THE COURT OF THE SUBORDINATE JUDGE, MELUR.**

**Present: Tmt. M. SAMUNDEESWARI PRABHA, M.A., M.L.,**

Friday, the 10<sup>th</sup> day of April 2026

**I.A.No.3/2026**

**in**

**I.A.No.2/2025**

**in**

**O.S.No.360/2024**

Eswaran ..... Petitioner/ Proposed 6<sup>th</sup>  
Respondent/ 6<sup>th</sup> Defendant

// Vs //

Rajalakshmi ..... Respondent/Respondent/  
Plaintiff

This petition coming up for final hearing before this court on 13.03.2026 in the presence of Advocate.Mrs.Sakundaladevi, Advocate for the petitioner and Advocate Mr.S.Nedumaran, Advocate for the respondent and upon hearing the enquiry on both sides and on perusal of the records and having stood over for consideration till this day, this court delivers the following :-

## Orders

This petition has been filed Under Order 9 Rule 7 and Section 151 of CPC pass an order to set aside the exparte order passed against the petitioner on 09.01.2026 and then proceed with the case.

### **1. Brief averments of the petition :-**

The petitioner herein is the proposed 6<sup>th</sup> respondent/6th defendant in the above original suit. The above case was posted for his side appearance on 09.01.2026. But, the petitioner has not received any notice and summons from this court or the plaintiff's advocate and he has not knowledge about the hearing date. Hence the petitioner could not able to appear before this court on 09.01.2026 while the above case was called, and the petitioner was called absent and set exparte order was passed by this court on 09.01.2026 against the petitioner. The petitioner non appearance before this court on 09.01.2026 is neither willful nor wanton. Hence this petition has to be allowed.

### **2. Brief averments of the counter affidavit filed by the Respondent/**

#### **Respondent/Plaintiff :-**

(I) The respondent herein is the plaintiff in the original suit. The respondent admitted averments hereunder, all the other averments is

denied and the petitioner is put to strict proof of the same. In the above case, the suit schedule mentioned property to the plaintiff Schedule of the respondent/plaintiff was inherited by the plaintiff's paternal grandfather Mr.Periya Karuppan. The respondent's father got the 1st defendant through the partition of the said grandfather's property. Although the respondent had opportunity to get 1/4 shares in the ancestral property under the amended provisions of the Hindu Succession Act, 2005, the respondent has been filed a original case in the above court seeking to cancel the sale of the property to the 4th and 5th defendants without his knowledge, concealing his share without his knowledge, and relief that the 1st defendant cancel the sale to the 4th and 5th defendants without his knowledge, and since the 5th defendant registered the sale deed to the 6th defendant on 07.01.2025 Document No. 1/1058/2025 and the said partition was registered while the case was pending, the respondent has been filed a original suit in the above court seeking to cancel the said sale deed and make a partition to get 1/4 shares.

(ii) As the plaintiff in the above case, the respondent have a doctor's certificate stating that the respondent 100% blind in both eyes,

that she living in extreme poverty and have no source of income, and that she has told the truth in court, and she has already filed a blind certificate as a document before this court. It seems ridiculous to say that the date of the case is unknown since the same lawyers who are appearing for the 4th defendant and the 5th defendant are also appearing for the 6th defendant and that they have a bad intention to delay the case. Hence this petition has to be dismissed with costs.

**3. The point for consideration aroused is that :-**

*Whether the petition has to be allowed or not ?*

**4. Point :-**

Both sides heard. Records perused. This petition has been filed for setting aside the exparte order passed on 09.01.2026. The above said exparte order was passed as against the present petitioner who is the 6<sup>th</sup> respondent/6th defendant in the main suit. The main suit has been filed for partition and seperate possession. Hence it is just and necessary to given an opportunity to the plaintiff to defend the case on merits.

**5. Result:-**

*In the result, this court inclines to pass an order in favour of the petitioner provided the petitioner has to pay a cost of Rs.1000/- to the respondent on or before 19.06.2026. Failing which this petition stands dismissed.*

Dictated to the Steno Typist by me, and typed by her directly, corrected and pronounced by me in open court, this the 10<sup>th</sup> day of April 2026.

**Sub Judge,  
Melur.**

**Both sides of witness and documents : Nil**

**Sub Judge,  
Melur.**

**Draft/Fair Order  
in  
IA.No.3/2026  
in  
IA.No.2/2025  
in  
O.S.No.360/2024  
Date : 10.04.2026  
Sub Court,  
Melur.**