

IN THE COURT OF THE DISTRICT MUNSIF, KUMARAPALAYAM

Present: Selvi. T. Naveena B.Com. LL.B (Hons.),

District Munsif,

Kumarapalayam.

Tuesday the 09th day of June 2026

I.A.No:02/2025

IN

O.S.No:42/2020

Lakshmi

...

Petitioner/Defendant

/Vs/

M. Vijaya

...

Respondent/Plaintiff

This petition came for final hearing before this court on 10.04.2026 in the presence of Thiru. M. Ramesh, Advocate for the Petitioner/Defendant and Thiru. K. Udhayakumar Respondent/Plaintiff and upon perusal of material records and having stood over for consideration till this date, this court delivers the following:

ORDERS

This petition has been filed under Order IX Rule 13 r/w Section 151 of Code of Civil Procedure.

1. BRIEF FACTS OF THE PETITION WOULD RUN AS FOLLOWS:

The respondent has filed the above suit for permanent injunction. There is no merit in the plaint and that the respondent is not entitled to the remedy as prayed. The petitioner had been in the enjoyment of the suit property for several years. On 04.03.2022 suit was posted for cross examination of PW1. The petitioner was unable to meet his counsel and instruct him for the cross examination of PW1, since the

petitioner was bedridden and was on quarantine due to corona. The previous counsel of PW1 had represented before the court as “party is not turned up and report no instruction” and based on the same an exparte order was passed against the petitioner on 04.03.2022 and the suit was decreed exparte on 11.03.2022 in favour of the respondent.

It took ten months to completely recover from corona and the petitioner is still suffering from old age disease. In the meanwhile, the petitioner gained knowledge of the exparte decree passed on 11.03.2022 through his present counsel. The petitioner is having a valid defense and a fair chance to win her case. The non-appearance of the petitioner on 04.02.2022 and the failure in cross examining PW1 was not negligent or wanton one. Hence, the petitioner prayed to allow this petition and to set aside the exparte decree passed against the petitioners herein.

2. BRIEF FACTS OF THE COUNTER STATEMENT WOULD RUN AS FOLLOWS:

The respondent denied the allegations made by the petitioner except those admitted as true. The above suit had been filed in 2020 and after the commencement of trial on 28.02.2022, the suit had been posted for the cross examination on 04.03.2022. An exparte order had been passed against the petitioner on 04.03.2022, since the petitioner’s counsel had reported no instructions. Later, on 07.03.2022, the suit had been posted for further PWs and an exparte decree had been passed on 11.03.2022.

The petitioner has filed the present petition after about 2 years on 07.11.2024, after the passing of exparte decree in 11.03.2022. The petitioners have not filed any

medical records and thus, the petition is liable to be dismissed. The present petitioner had been filed with the intent to delay the proceedings of the suit. The present petition filed stating false reasons is liable to be dismissed. Hence, the respondent prayed to dismiss the present petition.

3. ISSUES: Whether or not the exparte decree passed against the petitioner be set aside?

4. DISCUSSION:

Heard. Records perused. The above suit had been filed for the relief of permanent injunction. The present petition had been filed by the petitioner seeking to set aside the exparte decree passed against the petitioner on 11.03.2022. The reason stated by the petitioner for the non-appearance before this court and the failure in cross examining PW1 is that the petitioner had been bedridden and quarantined as she was affected by Corona and had been bedridden due to the same. The contention of the respondent is that the petitioner had not produced any medical records regarding the illness alleged and that the present petition has been filed to delay the proceedings of the suit.

From the perusal of records, this court observes that the petitioner had been set exparte as early as 04.03.2022 and that thereafter an exparte decree had been passed against the petitioner on 11.03.2022. The reason stated by the petitioner for non-appearance before this court and the failure in cross examination of PW1 is that the petitioner had been affected by Corona and had been bedridden due to the same. The petitioner has not stated the duration from when the petitioner had been affected or

the number of days or months the same had lasted. The petitioner has also not stated the kind of treatment she had underwent, the number of days she had been in the hospital, the name of the hospital and have also failed to produce the relevant medical records in support of the same. Thus, in the absence of any corroborative evidences, mere statement of illness is not satisfactory to this court to set aside the exparte decree passed against the petitioner.

However, no prejudice would be caused if the above petition is allowed and the trial of the suit is conducted in full. In order to give another opportunity to the petitioner to let in his case and to avoid multiplicity of proceedings and to bring finality to the litigation, this court is of the opinion that the exparte decree passed against the petitioner shall be set aside.

In the result, this petition is ALLOWED. No costs.

Dictated by me to the Steno-Typist and has been typed in the computer directly, corrected and pronounced by me in the open Court on 09th day of June 2026.

District Munsif,
Kumarapalayam.

PETITIONER SIDE DOCUMENTS

NIL

RESPONDENT SIDE DOCUMENTS

NIL

District Munsif,
Kumarapalayam.

Fair/Draft Orders
I.A. No: 02/2025 IN
O.S. No: 42/2020
Dated: 09.06.2026