



**IN THE COURT OF THE DISTRICT MUNSIF OF UDHAGAMANDALAM  
THE NILGIRIS**

Present: **Thiru. L. PRAKASH, B.Sc., B.L.,**  
DISTRICT MUNSIF, UDHAGAMANDALAM.

**Tuesday, the 11<sup>th</sup> day of August 2026**

**I.A. No. 02 of 2026**  
**in**  
**R.L.T.O.P. No. 57 of 2025**  
(C.N.R. No. TNNS030 - 00149 - 2025)

1. N. Ayub

2. Kareem

... Petitioners/Respondents/Tenants

**/VS/**

Johurunisha

... Respondent/Petitioner/Landlord

This petition came on 24.07.2026 for final hearing before me in the presence of Mr. T.K. Babu, learned Counsel for the Petitioners/Tenants and the Respondent/Landlord remains exparte, upon hearing the petitioners' side exparte enquiry and upon considering case records carefully, this court passes the following

**ORDER**

**1.** This petition has been filed by the petitioners/tenants under Order IX Rule 7 read with Section 151 of the Code of Civil Procedure, praying to set aside the ex parte final order dated 09.04.2026 passed against them in R.L.T.O.P. No.57 of 2025.

**Gist of Petition and affidavit:**

2. The case of the petitioners, in brief, is that the above R.L.T.O.P. was posted on 27.01.2026 for filing their counter statement. According to the petitioners, due to personal inconvenience and unavoidable circumstances, they could not visit their Advocate's office to sign the counter statement. It is further stated that their Advocate was engaged before the learned Subordinate Judge's Court, Coonoor, on the same day and therefore, he could not appear before this Court or seek an adjournment. Consequently, the petitioners were set ex parte and thereafter the ex parte final order came to be passed on 09.04.2026. The petitioners contend that their failure to file the counter statement was neither wilful nor deliberate. It is further stated that the counter statement has now been filed along with the present petition. Hence, they seek to set aside the ex parte final order, contending that otherwise they would suffer irreparable loss and hardship.

**Counter statement:**

3. Despite service of notice in the present petition, the respondent/landlord has not appeared before this Court and has not filed any counter. Hence, the petition is taken up for consideration on the basis of the averments contained therein and the records of the main proceedings.

**Points for consideration:**

4. Heard the petitioners' side. The case records have been perused carefully. The point that arises for consideration is: *Whether the petitioners/tenants have shown sufficient cause for their failure to appear and file their counter statement and whether they are entitled to have the ex parte final order dated 09.04.2026 set aside?*

**Discussion:**

5. Before considering the merits of the petition, it is necessary to advert to the relevant statutory provisions governing the present proceedings. The main R.L.T.O.P. was filed under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 (hereinafter referred to as "the Act"). The said petition was taken on file on 25.10.2025 and notice was ordered to the present petitioners/tenants.

6. Section 34(1) of the Act provides that the Rent Court and Rent Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and shall have the power to regulate their own procedure. The relevant provision reads as follows:

***34. Procedure of Rent Court and Rent Tribunal.—(1) Subject to any rules that may be made under this Act, the Rent Court and the Rent Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (Central Act 5 of 1908), but shall be guided by the principles of natural justice and shall have power to regulate their own procedure..."***

7. The Act therefore makes it clear that the provisions of the Code of Civil Procedure are not applicable to the proceedings before the Rent Court in the same manner as they apply to an ordinary civil suit. The Rent Court is primarily governed by the provisions of the Act, the Rules framed thereunder and the principles of natural justice.

8. At the same time, Section 35 of the Act confers certain specific powers upon the Rent Court. Section 35(1) provides that, for the purpose of discharging its



functions under the Act, the Rent Court shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure for certain specified purposes, including deciding a matter ex parte and setting aside an order passed ex parte. Section 35(1)(f) and (g) specifically provide for:

***(f) dismissing an application or appeal for default or deciding it ex-parte;***

***(g) setting aside any order of dismissal of any application or appeal for default or any other order passed by it ex-parte."***

9. Further, Section 35(8) specifically provides:

***The Rent Court may set aside any order passed ex-parte if the aggrieved party files an application and satisfies it that notice was not duly served or that he was prevented by any sufficient cause from appearing when the case was called for hearing."***

10. Thus, the power to set aside an ex parte order in a proceeding under the Act is specifically traceable to Section 35(8) of the Act. The provision requires the aggrieved party to satisfy the Rent Court either that notice was not duly served or that the party was prevented by sufficient cause from appearing when the case was called for hearing.

11. Though the present petition has been styled as one under Order IX Rule 7 read with Section 151 of the Code of Civil Procedure, the substantive provision applicable to the present proceedings is Section 35(8) of the Act. Therefore, the question is not merely whether the petitioners have assigned some reason for their absence, but whether the reason pleaded by them constitutes "sufficient cause" within the meaning of Section 35(8) of the Act.



**12.** The procedural history of the main R.L.T.O.P. assumes considerable importance in deciding whether the petitioners have shown sufficient cause. The records disclose that the main R.L.T.O.P. was filed under Section 21(2)(a) of the Act and was taken on file on 25.10.2025. Notice was ordered to the present petitioners/tenants. Upon service of notice, on 13.11.2025, the 2nd petitioner alone was present before this Court. On that date, one Advocate, namely Mr. Naveenkumar, undertook to file his vakalath for the petitioners/tenants. Therefore, the matter was passed over for filing an undertaking memo.

**13.** However, even till 4.20 p.m. on 13.11.2025, no such memo was filed. In those circumstances, this Court set the respondents/tenants ex parte on the same day and posted the matter for ex parte evidence on 20.11.2025. The matter was thereafter adjourned to 01.12.2025.

**14.** On 01.12.2025, the present petitioners/tenants filed I.A. No.01 of 2025 seeking to set aside the ex parte order. The said petition was allowed on the same day subject to payment of costs. Upon payment of the costs, the petition was allowed on 09.12.2025 and the matter was thereafter posted for filing the counter statement of the petitioners/tenants on 19.12.2025.

**15.** Thus, the petitioners were specifically given an opportunity to contest the main R.L.T.O.P. and to file their counter statement. However, on 19.12.2025, there was no representation for the petitioners/tenants and they were also called absent. Nevertheless, in the interest of justice, this Court did not immediately proceed to pass an ex parte order, but adjourned the matter to 06.01.2026.



16. Even on 06.01.2026, there was no representation for the petitioners/tenants. Taking a further liberal view in their favour and in the interest of justice, this Court again adjourned the matter to 27.01.2026.

17. On 27.01.2026 also, there was no representation for the petitioners/tenants and they were called absent. Despite the earlier opportunity granted by setting aside the previous ex parte order, and despite two further opportunities granted on 19.12.2025 and 06.01.2026, the petitioners neither appeared nor filed their counter statement. Consequently, on 27.01.2026, the petitioners/tenants were again set ex parte and the matter was posted for ex parte enquiry on 03.02.2026.

18. On 03.02.2026, ex parte enquiry was conducted on the side of the petitioner/landlord by examining the petitioner in the main R.L.T.O.P. as P.W.1. Thereafter, ex parte arguments were heard on 03.03.2026. The matter was ultimately considered on merits and an ex parte final order was passed on 09.04.2026.

19. It is therefore evident from the above chronology that the present case is not one where the petitioners were unaware of the proceedings or where they were prevented from participating in the proceedings without notice. On the contrary, the petitioners had actual knowledge of the proceedings, appeared before the Court on 13.11.2025, obtained an opportunity to engage counsel, and thereafter even filed I.A. No.01 of 2025 for setting aside the earlier ex parte order. The said petition was allowed upon payment of costs and the matter was thereafter repeatedly adjourned to enable them to file their counter statement.

20. The present petitioners therefore had sufficient knowledge of the proceedings as well as the stage of the case. The earlier ex parte order had already



been set aside at their instance. Despite the same, they failed to avail the opportunity granted to them. On 19.12.2025, 06.01.2026 and 27.01.2026, they failed to appear and failed to file their counter. The Court, on the first two occasions, adopted a liberal approach and granted further opportunities. Only on 27.01.2026, after the repeated absence of the petitioners, were they again set ex parte.

**21.** The explanation now offered is that on 27.01.2026, due to personal inconvenience and unavoidable circumstances, the petitioners could not visit their Advocate's office to sign the counter statement and that their Advocate was engaged before the learned Subordinate Judge's Court, Coonoor, and therefore could not appear before this Court or seek an adjournment.

**22.** The explanation cannot be considered in isolation from the previous conduct of the petitioners. The matter had already been adjourned after the earlier ex parte order was set aside. The petitioners had obtained an opportunity to file their counter on 19.12.2025. They remained absent. A further opportunity was granted on 06.01.2026. They again remained absent. Yet another opportunity was granted and the matter was posted on 27.01.2026. They again remained absent.

**23.** Thus, the present case is not a case of a single accidental absence on one isolated date. The petitioners had remained absent on three consecutive dates after securing an order setting aside the earlier ex parte order. Their conduct has to be considered cumulatively while determining whether the explanation offered by them constitutes sufficient cause.

**24.** The expression "sufficient cause" has been considered by the Hon'ble Supreme Court in *Parimal v. Veena @ Bharti*, (2011) 3 SCC 545. The Hon'ble



Supreme Court has held that, while considering sufficient cause, the Court has to examine whether the party honestly and sincerely intended to remain present when the matter was called for hearing and whether the party had acted with reasonable diligence and bona fides. The expression is not to be applied mechanically, and each case has to be considered on its own facts. At the same time, sufficient cause cannot be founded upon negligence, want of bona fides or a deliberate failure to act with diligence.

25. Similarly, in ***G.P. Srivastava v. R.K. Raizada, (2000) 3 SCC 54***, the Hon'ble Supreme Court held that sufficient cause for non-appearance must relate to the date on which the defendant was set ex parte and that the Court has to consider whether the defendant was prevented by a sufficient cause from appearing when the matter was called for hearing.

26. In ***N. Balakrishnan v. M. Krishnamurthy, (1998) 7 SCC 123***, though the Hon'ble Supreme Court observed that length of delay is not always decisive and that acceptability of the explanation is the determining factor, it was also made clear that the Court must consider whether the explanation is bona fide and whether the conduct of the party discloses negligence or lack of due diligence.

27. The above principles have been specifically applied in the context of proceedings under the TNRRRLT Act by the Hon'ble Madras High Court in ***B. Sarala v. Dr. Kanchana, CRP No.5042 of 2023, dated 27.02.2024***. In that case also, the tenant had been set ex parte in an R.L.T.O.P. and subsequently sought to set aside the ex parte eviction order after considerable delay. The Hon'ble High Court noticed the petitioner's failure to take timely steps and held that the conduct reflected





negligence and absence of bona fides. The Civil Revision Petition was dismissed, while liberty was given to the tenant to pursue the statutory appellate remedy.

**28.** The principle laid down in *B. Sarala* case is particularly relevant to the present case. The petitioners herein had actual knowledge of the proceedings and had already availed the remedy of setting aside the earlier ex parte order. Having obtained such relief, they were expected to diligently participate in the proceedings and file their counter statement. Instead, they remained absent on three successive dates and allowed the matter to proceed ex parte.

**29.** It is also relevant to consider the delay in filing the present petition. The ex parte final order was passed on 09.04.2026. The present petition was filed only on 01.06.2026. Thus, there is a delay of 53 days from the date of the ex parte final order. The statutory period ordinarily applicable for an application to set aside an ex parte decree under Article 123 of the Limitation Act, 1963 is thirty days from the date of the decree, where summons was duly served, or from the date of knowledge where summons was not duly served.

**30.** In the present case, there is no question of want of service of notice. The petitioners had actual appearance before this Court on 13.11.2025. They thereafter filed I.A. No.01 of 2025 for setting aside the earlier ex parte order. Therefore, the petitioners cannot contend that they were unaware of the proceedings or of the subsequent hearing dates. The delay of 53 days in approaching this Court after the ex parte final order is therefore a further circumstance which has to be considered while examining their bona fides.



31. It is true that Section 35(8) of the Act does not itself prescribe a separate period of limitation for filing an application to set aside an ex parte order. Nevertheless, the statutory requirement under Section 35(8) that the aggrieved party must satisfy the Court that he was prevented by "sufficient cause" from appearing remains mandatory. The absence of a specific period in Section 35(8) cannot be understood as conferring an unlimited right upon a party to approach the Rent Court at any time after an ex parte final order. The remedy has to be exercised within a reasonable time and with due diligence, particularly in view of the object of the Act to provide speedy adjudication of landlord-tenant disputes.

32. The Hon'ble Madras High Court in *B. Sarala v. Dr. Kanchana*, supra, while considering the TNRRRLT Act, reiterated that the law of limitation has to be applied with the statutory rigour wherever it is applicable and that negligence and absence of bona fides cannot be permitted to defeat the statutory scheme. The Court also noticed that orders of the Rent Court are subject to the statutory appellate remedy under Section 38 of the Act.

33. At this stage, it is also necessary to bear in mind that the fact that the respondent/landlord has remained ex parte in the present petition does not by itself entitle the petitioners to an order setting aside the ex parte final order. The Rent Court is required to independently satisfy itself as to the statutory requirements under Section 35(8). The burden is upon the petitioners to establish sufficient cause for their failure to appear when the matter was called for hearing.

34. The petitioners have not satisfactorily explained their absence on 19.12.2025 and 06.01.2026. Their explanation principally relates to 27.01.2026. Even assuming that on 27.01.2026 the petitioners could not visit their Advocate's office due



to personal inconvenience, that explanation does not satisfactorily explain their continued absence on the two earlier dates when they were specifically given opportunities to file their counter statement.

**35.** Further, the engagement of an Advocate before another Court, by itself, cannot automatically constitute sufficient cause for the litigant's repeated absence, particularly when the matter had already been adjourned and the petitioners had knowledge that their counter statement was due. If the Advocate was genuinely unable to appear, appropriate steps could have been taken by the petitioners or another counsel could have been engaged to represent them. The petitioners have not demonstrated any circumstance which prevented them from taking such reasonable steps.

**36.** The present petitioners had already obtained the indulgence of this Court once. The earlier ex parte order was set aside at their instance in I.A. No.01 of 2025. Thereafter, this Court granted three further opportunities to enable them to file their counter statement. Despite such repeated indulgence, they remained absent and failed to file the counter. Their conduct, viewed as a whole, does not disclose reasonable diligence or bona fide prosecution of the proceedings.

**37.** The submission that the counter statement is now filed along with the present petition also cannot, by itself, constitute sufficient cause. The filing of a defence after the final order cannot retrospectively cure the failure to avail the repeated opportunities granted by the Court. The question before this Court is not whether the petitioners now have a defence, but whether they were prevented by sufficient cause from appearing and contesting the proceedings when the matter was called for hearing.



**38.** The Rent Court is certainly required to adopt a liberal and justice-oriented approach while considering an application under Section 35(8), particularly where the party establishes that the absence was bona fide and beyond his control. However, such liberal approach cannot be extended to a party who, after obtaining an opportunity to contest, repeatedly remains absent without satisfactory explanation and approaches the Court only after the final adjudication.

**39.** It is also relevant that the main R.L.T.O.P. was not disposed of merely by mechanically passing an ex parte order. After the petitioners were set ex parte on 27.01.2026, the landlord was directed to let in evidence. Ex parte evidence was recorded on 03.02.2026 by examining P.W.1. Ex parte arguments were heard on 03.03.2026 and only thereafter the ex parte final order was passed on 09.04.2026. Thus, the petitioners had ample opportunity before the final adjudication to approach the Court and seek restoration of their right to contest. They did not do so.

**40.** The object of Section 35(8) is to prevent injustice caused by an ex parte order where the party was genuinely prevented from appearing despite due diligence. It is not intended to provide repeated opportunities to a party who deliberately or negligently fails to participate in the proceedings. The power under Section 35(8) is therefore discretionary and must be exercised judicially upon satisfaction of the statutory requirement of sufficient cause.

**41.** In the present case, the petitioners have not established that they were prevented by sufficient cause from appearing when the matter was called for hearing. On the contrary, the records establish that they had actual knowledge of the proceedings, had earlier secured the setting aside of an ex parte order, were granted repeated opportunities thereafter, but failed to appear and file their counter statement



on 19.12.2025, 06.01.2026 and 27.01.2026. The present petition was filed only on 01.06.2026, nearly 53 days after the ex parte final order dated 09.04.2026, without any satisfactory explanation for such delay.

42. Therefore, the reasons stated in the affidavit, namely personal inconvenience and the engagement of the Advocate before another Court, particularly when considered in the background of the entire procedural history, cannot be accepted as sufficient cause within the meaning of Section 35(8) of the Act. The conduct of the petitioners indicates lack of due diligence and bona fide prosecution of the proceedings.

43. Consequently, this Court finds that the petitioners have failed to establish sufficient cause for their non-appearance and non-filing of the counter statement and are therefore not entitled to the discretionary relief of setting aside the ex parte final order dated 09.04.2026. Accordingly, the point for consideration is answered against the petitioners.

#### **RESULT:**

44. *In the result, this petition is dismissed. There shall be no order as to costs.*

This order is dictated to the steno - typist, typed by her in computer, corrected by me and pronounced by me in the open court on this the 11<sup>th</sup> day of August 2026.

**District Munsif,  
Udhagamandalam.**



Draft/Fair Order:

**I.A. No. 02/2026**

in

**R.L.T.O.P. No. 57/2025**

Dated: **11.08.2026**

**District Munsif Court,  
Udhagamandalam.**