

written statement. On 12.12.2024 he cannot file written statement since he did not get certain important documents and he was not able to appear before the court due to heavy rains. His counsel also cannot appear due to old age. So this court has set the petitioner exparte. The absense of this petitioner and the non-filing of written statement was neither willful nor wanton. Unless the exparte order passed against him is set aside, he would be put to irreparable loss and hardships. Therefore, he prays to set aside exparte order passed against him on 12.12.2024.

3. The contention of the respondent:

The respondent is the plaintiff and he has filed this suit against this petitioner and the first defendant. The first defendant did not appear before the court and this petitioner alone appeared. But he was set exparte since written statement was not filed on 12.12.2024. The reason given by the petitioner for his absence and non-filing of written statement is not true or acceptable. He has allowed to be set exparte by not-filing written statement inspite of several adjournments. The petition is devoid of any merits and has to be dismissed. Thus he prays to dismiss this petition.

4. Point for consideration in this petition is **“Whether the petition to be allowed?”**

5. Answer to Point

This respondent has filed this suit for declaration and other reliefs against defendants 1 and 2 . The first defendant did not appear before the court and was

already set exparte. This defendant entered appearance through counsel, and suit was adjourned to 12.12.2024 for filing of written statement of this second defendant. But on that day no representation was made on behalf of the petitioner and written statement was also not filed. Therefore, the petitioner/second defendant was called absent and set exparte. Hence he has filed this petition to set aside the exparte order.

On perusal of the notes paper it is found that the second defendant has entered appearance through his counsel on 18.11.2024 only and the case was adjourned for filing written statement to 12.12.2024. However, since no representation was made on that day the petitioner was set exparte. It is found that the petitioner was set exparte on the second hearing itself and when the case was posted for filing of written statement on the first hearing. It is also found that the petitioner has filed written statement along with this petition. The reason given by the petitioner for his absence is quite acceptable. The hardships caused to the respondent shall be compensated by way of cost.

5.1 Therefore, it is held that the interest of justice warrants that the petition to be allowed a payment of cost of Rs. 1,000 to the respondent. The petitioner shall pay the cost on or before 27.6.2025. Failing which the petition will be dismissed. This point is decided accordingly.

In the result the petition will be allowed on payment of cost of Rs.1000/- (Rupees one Thousand only) to the respondent on or before 27.06.2025. Failing which the petition will be dismissed. Call on 30.06.2025.

Dictated to Steno-typist and transcribed and typed by her in computer, corrected and pronounced by me in open Court on this the 18th day of June 2025.

Principal District Judge,
Ramanathapuram.

List of witnesses and documents on either side: NIL

Principal District Judge,
Ramanathapuram.