

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE,
RAMANATHAPURAM.**

**PRESENT: Thiru.C.Mohanram, M.A., B.L.,
Additional District Judge,
Ramanathapuram.**

Thursday, the 12th day of March 2026

I.A.No.14/2026

in

O.S.No.46/2023

1. Chandra

2. Viji

3. Kavitha

... Petitioners / Defendants 7 to 9

/Vs/

1. Kamatchi Ammal

2. Ramesh

... Respondents 1 & 2 / Plaintiffs

3. Latha

4. Rani

5. Suseela

6. Nagavalli

7. Balu @ Balasubramanian

8. Shankar

9. Selvi

10. Divya

11. Kala

12. Suganya

13. Mugeshkannan

... Respondents 3 to 13 /

Defendants 1 to 6 and 10 to 14

This petition came up on 24.02.2026 before this Court for final hearing in the presence of Thiru.B. Sundarrajan, Advocate for the Petitioners and Thiru.K. Nagarajan, Advocate for the Respondents 1 and 2 and Thiru.A.Habeeb, Advocate for Respondents 3 to 13, on hearing their arguments and on perusal of petition, counter and case records, this Court delivers the following:

ORDER

Petition is filed under Order 9 Rule 7 of CPC to set aside the exparte order dated 06.10.2023 passed against the petitioners/defendants 7 to 9.

2. The petitioners have stated that the suit was posted on 06.10.2023 for filing their statement. The 7th defendant has been conducting the case and on behalf of defendants 8 and 9. The 7th defendant could not appear on 06.10.2023 due to her illness and so their written statement was not filed on the said date. So this court passed an exparte order against them. They have got good defenses and they have come forward with the petition along with written statement. The non-filing of written statement was neither willful nor wanton. Therefore, the exparte order passed against them has to be set aside. Unless the exparte order is set aside, they would put into undue hardship and injury.

3. The learned counsel for petitioners in support of the petitioners' case has relied on the ruling of Hon'ble Supreme Court in the case of Bhanu Kumar Jain Vs Archana Kumar and another reported in AIR 2005 Supreme Court Page 626. He also relied on the ruling of the Odisha High Court in the case of Arjun Singh Vs Mohindra Kumar and others AIR 1964 SC Page 993 = 1964 SCR (5) 946.

4. The respondents / plaintiffs have stated that the 1st petitioner / 7th defendant had not suffered from any illness and due to her illness they could not file their written statement on 06.10.2023 is false. Now, the suit has been posted for Judgment. In the above circumstances, the petitioners have filed the petition after 2 years 8 months with soul intention to drag on the proceedings. The petitioners have failed to explain as to why the petitioners 2 and 3 / defendants 8 and 9 have not chosen to file written statement. Therefore, the petition filed by petitioners/defendants 7 to 9 have no merits and liable for dismissal.

5. Point for consideration is whether this petition is liable to be allowed as prayed for.

6. This court perused the records. The main suit has been filed for partition. Issues were framed on 30.11.2023 and the trial was commenced on 12.06.2024. The trial closed on 30.10.2025. Thereafter this court reserved

the case for Judgment on 16.02.2026 after hearing the arguments of both parties on 29.01.2026. This petition was filed on 03.02.2026. As contended by the learned counsel for respondents/ plaintiffs, the petitioners have come forward with this petition to set aside the exparte order that was against them on 06.10.2023. The petitioners have failed to explain as to why they could not come forward with this application for more than 2 ½ years. The petitioners have not filed any documentary evidence to substantiate their stand that they have been prevented from participating the trial proceedings, even though they have failed to file their statement even for good cause. The ruling cited on the side of petitioners are not applicable to the facts in hand. Therefore, this court is of the considered view that this petition has no merits and liable to be dismissed. If this court consider the grievance of the petitioners leniently, the respondents / plaintiffs would put into untold hardships and injuries which cannot be compensated in other ways. Hence, this petition is liable to be dismissed.

In the result, the petition is dismissed.

Dictated to the Typist, directly typed by her in the Computer, corrected and pronounced by me in the open Court this the 12th day of March 2026.

Additional District Judge,
Ramanathapuram.
12.03.2026

Witness and document on either side :

Nil

Additional District Judge,
Ramanathapuram.
12.03.2026