

seeking relief of permanent injunction against them. The suit was posted for filing written statement on 13.06.2023. Due to viral fever the 1st petitioner was bedridden taking treatment in private Hospital, so he was unable to contact to his counsel. Due to his absence on the day and due to non filing of written statement himself the other petitioners was set exparte. The Petitioners / Defendants has to be given an opportunity to defend the suit. So the Petition has to be allowed.

3. **Brief averments made in the counter filed by the Respondent / Plaintiff** : The Respondent / Plaintiff has stated in his counter that the suit is for permanent injunction in respect of a poramboke cart track and an order of interim injunction was granted in I.A. No. 2/2022. Before filing of the suit into court the Defendants locked the cart track by putting a live fence across. They wantonly left the suit as exparte in the meanwhile the Defendants remove the live fence and put up a street fence east of the cart track in the land in S. No. 256/9 closing it from other properties. The facts stated by the Petitioner in the affidavit are false. So the petition has to be dismissed.

4. No oral evidence have been adduced by either side. On the side of the Respondent, Ex.R1 is marked. No exhibits marked on side of the Petitioners.

5. On perusal of records this court finds that the suit is filed for the relief of permanent injunction against the Petitioners / Defendants and due to non filing of written statement the Petitioners / Defendants were set exparte on 13.06.2023 by this court. Ex-R1 are the Photographs which shows that a live fence and steel wire fence has put up in a agricultural land. The Respondent / Plaintiff has

: 3 :

stated that those fences are put up by the Petitioners / Defendants for enclosing the property from other properties and they have done in so during the period when they were remaining exparte in the suit. So in order to know the true facts of the case that is whether the Petitioners / Defendants has put up defense as shown in Ex-R1 and interfered in the peaceful enjoyment of the Respondent / Plaintiff.

6. Heard both. On perusal of the written statement filed by the Petitioners / Defendants this court finds that the Respondent / Plaintiff's possession over the suit 'A' schedule property is denied by the Petitioners / Defendants and no cause of action has arised for the Plaintiff. So in order to decide the dispute between the parties and to put an end to the litigation between the parties and to decide the suit on merits this court feels that this petition can be allowed in the interest of justice. For the delay happened in the case by remaining exparte in the suit and by filing this petition this court decides to allow this application on condition of payment of cost.

7. In the result this petition is allowed. On condition of payment of cost of Rs.1000/- to be paid by the Petitioners / Defendants to the Respondent / Plaintiff on or before 01.11.2023 otherwise this petition stands dismissed on 02.11.2023.

Dictated to the Typist, typed by her and Pronounced by me in the open court, on this the 18th day of October 2023.

(Sd/- N. Thilageswari)

Principal District Munsif (F.A.C.),

Attur.

.. 4 ...

: 4 :

Annexure :

Petitioner side witnesses : Nil

Respondent side witnesses : Nil

Petitioner side exhibits : Nil

Respondent side exhibits :

Ex. R1	Photographs (Nos.2)
--------	---------------------

(Sd/- N. Thilageswari)

Principal District Munsif (F.A.C.),

Attur.

P.D.M. COURT, ATTUR.

DRAFT / FAIR ORDER

in I.A. No. 3/2023 in O.S. No. 139/2022

Dated : 18.10.2023.