

**IN THE COURT OF DISTRICT MUNSIF, METTUR, SALEM DISTRICT**

Present: **Thiru. M.Selvam, B.A., B.L.,**

District Munsif, Mettur

Thursday, this the 20<sup>th</sup> day of November 2025

**I.A.No. 14 of 2025**

**in**

**O.S. No. 23 of 2014**

**(CNR No. TNSA17-000122-2014)**

Aravindhan

...Petitioner/3<sup>rd</sup> Defendant

-Vs-

1. Kannupaiyan (Died)

2. Mahalingam

...Respondents/Plaintiffs

This petition is heard in the presence of Mrs. G.Malathi., B.A., B.L., the Learned counsel for the Petitioner/3<sup>rd</sup> Defendant and Mr. V. Vaithiyalingam., B.A., B.L., the Learned counsel for the Respondents/Plaintiffs. Enquiry heard and having stood over for my consideration till this day, this court delivered the following,

**ORDER**

Petition filed by the Petitioner/3<sup>rd</sup> Defendant to set aside the exparte order dated 31.10.2014 passed in the original suit.

**1. Brief facts in the petition is as follows:**

1.1. The petitioner is the 3<sup>rd</sup> defendant in the Original suit. The suit was posted for defendants side evidence. While preparing for the proof affidavit, it was came to be known that the 3<sup>rd</sup> defendant in the original suit was set-exparte. The petitioner was working at abroad at the filing of the suit and he had also filed his passport and visa in the suit. The petitioner was under bona fide belief

that he was contesting the suit for the years. Hence, this petition is filed to set-aside the exparte order passed in the original suit.

**2. Brief facts in the Counter filed by respondents/plaintiffs is as follows:**

2.1. The respondents/plaintiffs denied the averments made by the petitioner/3<sup>rd</sup> defendant in his affidavit. The reason adduced by the petitioner is a false one. In the written statement filed by the defendants 1 and 2, it was averred that the respondents had tried to annex the suit property of the defendants 1 to 3 and the same was restrained with the help of some mediators by the defendants 1 to 3. The said averments clearly shows that the petitioner is in the same village at the time of filing the suit. This petition is filed after a period of 11 years and therefore, this petition itself is not maintainable and the same was filed only to protract the suit proceedings. Hence, this petition is liable to be dismissed.

3. No oral and documentary evidence on either side.

**4. Point For Consideration:-**

(i) Whether the exparte order dated 31.10.2014 passed in original suit has to be set aside or not ?

5. Both side rival submissions heard with regard to their respective pleadings and perused the materials on record. This suit is filed by the respondents/plaintiffs for the relief of declaration of title in respect of the suit properties and to restrain the defendants 1 to 3 by way of permanent injunction and to restrain the defendants 4 to 7 therein from in any way disconnecting the service connection in the suit well.

6. The petitioner herein is the 3<sup>rd</sup> defendant in the original suit and he was set-exparte therein on 31.10.2014 for non filing of the written statement. It is the contention of the petitioner that he was working in abroad at the time of filing

the suit and while preparing the proof affidavit to lead evidence, he had come to know that he was set-exparte and hence, this petition is filed to set-aside the same. Though the petitioner had averred that he had filed his pass port and visa in this regard, the same was not at all exhibited before this court. Further, in the memo filed along with this petition, the petitioner had also adopted the written statement filed by the 1<sup>st</sup> defendant in the original suit.

7. At this juncture, though the reason adduced by the petitioner in his affidavit is not satisfactory for the enormous delay occurred in filing this petition, since, the petitioner had not filed any fresh written statement with any new averments and was adopting the written statement already filed by the 1<sup>st</sup> defendant, this court considers that he can be permitted to proceed in the suit. No prejudice would be caused to the respondents, if this petition is allowed. However, the delay caused to the respondents/plaintiffs herein has to be compensated in the manner known to law. Therefore, this court is inclined to allow this petition on payment of cost.

**In the result, this petition is allowed on payment of cost of Rs. 2,000/- to the respondents/plaintiffs on or before 08.12.2025, if not, this petition stands dismissed. For compliance call on 09.12.2025.**

This order is typed by me in my official laptop, corrected and pronounced by me in open court on this 25<sup>th</sup> day of November 2025.

**District Munsif,  
Mettur**

**Both side witnesses and documents: Nil**

**District Munsif,  
Mettur**