

IN THE COURT OF DISTRICT MUNSIF, METTUR, SALEM DISTRICT

Present: **Thiru. M.Selvam, B.A., B.L.,**
District Munsif, Mettur

Wednesday, this the 17th day of December 2025

I.A.No. 09 and 10 of 2024

in

I.A.No. 03 and 02 of 2022

in

O.S. No. 149 of 2022

(CNR.No. TNSA17-000222-2022)

1. Vasanthamani
2. Rajammal
3. Saranya

...Petitioners/Defendants 1, 3 and 4

-Vs-

1. Sengodagounder
2. Nachammal
3. Theivasigamani

...Respondents/Plaintiffs

These petitions are heard in the presence of Mr. N. Sasikumar., B.A., B.L., the Learned counsel for the Petitioners/Defendants 1, 3 and 4 and Mr. M. Jaganathan., 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,

COMMON ORDER

Petitions filed by the Petitioners/Defendants 1, 3 and 4 under Order 9 Rule 7 of CPC to set-aside the exparte orders dated 21.12.2023 passed in I.A.No. 02 and 03 of 2022 in O.S.No. 149 of 2022.

1. Brief facts in both the petitions filed by the petitioners is as follows:

1.1. The petitioners are the defendants 1, 3 and 4 in the original suit, which was filed by the respondents for the relief of declaration and permanent injunction along with interlocutory applications. The said applications were posted on 21.12.2023 for filing counter on the side of the petitioners herein. On that day, the petitioner's counsel had called the 1st petitioner to be present in person to file the counter statement. But on the said day, the 1st petitioner had fell down and got fractures in his right hand and went to take treatment in the Anthiyur Hospital. Hence, they could not able to appear before this court and file their counter. Thereafter, when they approached their counsel, they came to know about the exparte orders passed as against them. Hence, these petitions are filed along with their counter to set-aside the exparte orders.

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

2.1. The respondents/plaintiffs denied the averments made by the petitioners in their petition. The petitioners had filed these petition suppressing the true facts. The petitioners were already set-exparte on 26.10.2022 and thereafter, filed an application in I.A.No. 05 and 06 of 2022 and the same was allowed on 22.11.2022 on payment of cost of Rs. 500/-. Even then, the petitioners had not filed their counters and let the same to pass an exparte order on 21.12.2023. The petitioners are acting in a manner to prolong 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 orders dated 21.12.2023 passed in I.A.No. 02 and 03 of 2022 in O.S.No. 149 of 2022 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. The original suit is filed by the respondents/plaintiffs for the relief of declaration, to declare the right of access through the suit B schedule cart track and suit D schedule pathway and for the relief of consequential permanent injunction. The I.A.No. 02 and 03 of 2022 is filed by the respondents/plaintiffs for an order of interim injunction till the disposal of the suit in this regard.

6. On perusal of the case records, it shows that the petitioners herein had through received the notice in the above interlocutory applications were failed to appear on the hearing date and they were firstly set-exparte on 26.10.2022. There after the exparte order was being set-aside by filing an application in I.A.No. 06 and 07 of 2022 on payment of cost of Rs. 500/-. Thereafter too, though this court had granted sufficient time to the petitioners, they had not filed their counter and again leaved the applications to pass an order of exparte on 21.12.2023 and had come forward with these petitions to set-aside the same. As averred by the respondents/plaintiffs in their counter statement, the above facts have been not disclosed by the petitioners in their petition.

7. Admittedly, the petitioners had come forward with these petitions for the second time to set aside the exparte orders passed as against them in the suit proceedings. It is the contention of the petitioners, that the 1st petitioner was called upon by his counsel on 21.12.2023 to file counter on their side, but he had fell down on that day and got fractures in his right hand and went to taken

treatment in Anthiyur Hospital. Though the petitioners had made such an contention, they had not produced any materials to establish the same. If the 1st petitioner had certainly taken treatment in the hospital, then he can very well produce the medical certificates, receipts or bills with regard to his treatment. But he had not produced the same for the best reason known to him.

8. The specific contention raised by the respondents is that the petitioners are trying to prolong the suit proceedings. It is no doubt that the petitioners herein had filed their counter statements along with this petition. Hence, considering the same, this court forms opinion that the petitioners could be granted with one more opportunity to establish their defence and proceed with the matter. At the same time, the delay caused to the respondents should also be adequately compensated by the petitioners in the manner known to law. Therefore, in the interest of justice and to avoid the multiplicity of proceedings, this court is inclined to allow this petition on cost.

In the result, these petitions are allowed on payment of cost of Rs. 3,000/- to the respondents/plaintiffs on or before 19.01.2026, if not, this petition stands dismissed. For compliance call on 19.01.2026.

This order is typed by me in my official laptop, corrected and pronounced by me in open court on this 17th day of December 2025.

**District Munsif,
Mettur**

Both side witnesses and documents: Nil

**District Munsif,
Mettur**