

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI

PRESENT : Tmt.R.PREMI, B.A., L.L.B., (Hons).,

District Munsif, Devakottai

Monday, the 30th day of June, 2025

I.A.No.08/2023

in

O.S.No.36/2016

1. Muthukumar
2. Sathyarajasekar

... Petitioners/ 5,6 Defendants

-Vs-

1. Buveneshwari

... Respondent/ plaintiff

This petition is coming before me for final disposal in the presence of Thiru.V.P.Kamal Dayalan learned advocate for the Petitioners/5,6 Defendants and where as set Exparte being on the Respondent/Plaintiff side. Having heard of both side argument and upon perusing the documents, this court do hereby pronounce the following...

ORDER

The petition is filed under Order IX Rule 7 and Section 151 of the CPC

1. The averments in the petition are as follows:

The petitioner is the fifth defendant in the main suit. He is filing the petition for himself and on behalf of his brother, sixth defendant. On 21.12.2022, the stage of the main suit has come up for written statement on their behalf and since the petitioner did not represent the case, an exparte order was passed against them. The petitioner avers that on 06.06.2022, they have appeared through their advocate

after which the petitioner has been conducting the case for himself and for his brother. After which the stage has come up for filing the amended plaint copy, as steps were taken since the fourth defendant has died. The stage for filing the amended plaint copy has lasted from 29.11.2022 till 11.01.2023, after which the amended plaint copy was filed on 01.02.2023, and the original plaint was corrected on 10.02.2023. Even before filing the amended plaint copy the court has passed an exparte order against them on 21.12.2022. The petitioner also claims that since he was advised as he should file his written statement only after filing the amended plaint copy and also since he was unwell on that particular day, he was unable to represent the case before the court on 21.12.2022, he also claims that the mistake was not willful and was due to unavoidable circumstances. He claims that if the petition is not allowed, it would cause irreparable loss and injury to him. Hence he prays for the petition to be allowed.

2. Now the question to be decided is whether the petition has to be allowed or not?

Petition perused. Enquiry heard. the petition has been filed under Order IX Rule 7 and Section 151 of Civil Procedure Code to set aside the exparte decree passed against the defendants five and six in the main suit. The petitioner claims that since amended plaint copy was not filed, he did not file the statement and also he was unwell because of which he was unable to attend the court on that particular day when the exparte order was passed against them. The reason stated by the petitioner is satisfactory. Owing to the principle of natural justice 'audi alteram partem' which signifies that every party must be given a reasonable opportunity to be heard, the court finds it fit to allow this petition in order to give the petitioners a chance to put forth their case before the court.

3. Decision

In the end, this petition is allowed with no cost.

This Order was dictated by me, typed by the steno-typist, corrected by me and pronounced by me in the open court on 30th day of June 2025.

**Sd/- Tmt.R.Premi
District Munsif,
Devakottai.**

Annexures:

List of witnesses on the side of the Petitioners/Defendents- Nil

List of documents on the side of the Petitioners/Defendents- Nil

List of witnesses on the side of the Respondent/Plaintiff- Nil

List of documents on the side of the Respondent/Plaintiff- Nil

**Sd/- Tmt.R.Premi
District Munsif,
Devakottai.**

**District Munsif Court,
Devakottai**

IA.No.08/2023

in

OS.No.36/2016

Dated: 30.06.2025

Draft/Fair Order
