

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI

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

District Munsif, Devakottai

Tuesday, the 19th day of August, 2025

I.A.No.06/2025

in

O.S.No.09/2023

Amburose

...Petitioner

-Vs-

Petchi

...Respondent

This petition is coming before me for final disposal in the presence of Thiru.T.Muthukumar learned advocate for the Petitioner and Thiru.B.Siva learned advocate for the Respondent. Having heard of both side enquiry and upon perusing the documents, this court do hereby pronounce the following...

ORDER

The petition has been filed under Order IX Rule 7 and Section 151 of CPC

1.The averments in the petition are as follows:

The petitioner is the respondent in the IA 3/23. In the IA 3/23, on 02/02/2024 the stage has come up for filing counter. The petitioner claimed that on that particular day he was medically ill and also since his wife was getting treatment for her illness, he was not able to take care of his daily essentials for the past one month. He claims that he came to know about the details of the suit only on 10/06/2025 when his advocate told him. He

claims the mistake was not wilful and was not intentional and prays that the petition may be allowed and the ex-parte order passed against may be set aside. He claims that if the petition is not allowed, he would be subject to ir-repairable loss and injury. Hence, he prays for the petition to be allowed.

2. The averments in the counter are as follows:

The respondent is the power agent of the plaintiff in the main suit. The respondent denies all the averments of the petition and says that the petitioner has filed this petition to drag on the proceedings of the case. He also states that the petitioner is enjoying the suit property based on mortgage. Even after the period of mortgage has expired, the petitioner is refusing to receive the mortgage amount and cancel the mortgage deed and is also preventing the respondents from enjoying their own property. Hence, he prays for the petition to be dismissed.

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

Petition and counter perused. The petitioner has stated the reason for his non-appearance as medical illness. On the other hand, the respondent has denied the averments of the petition and states that he has filed this petition to drag on the proceedings of the case. After perusal of both side averments and enquiry, the court comes to the conclusion that the reason stated by the petitioner is satisfactory. It is important to give every party a reasonable opportunity to be heard to put forth his case before this court to enable the court to decide the case on merits. Hence, the court finds it fit to allow this petition as the principle of natural justice demand so and also considering the legal maxim 'Audi alteram partem' which means 'hear the other side'. Hence, in the end, the petition is allowed. No order as to cost.

4. **Decision**

In the end, the petition is allowed. No order as to cost.

This Order was dictated by me, typed by the steno-typist, corrected by me and pronounced by me in the open court on 19th day of August 2025

**District Munsif,
Devakottai.**

Annexures:

List of witnesses on the side of the Petitioner-Nil-

List of documents on the side of the Petitioner-Nil-

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

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

**District Munsif,
Devakottai.**

**District Munsif Court,
Devakottai**

IA.No.06/2025

in

OS.No.09/2023

Dated: 19.08.2025

Draft/Fair Order
