

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.03/2022

in

O.S.No.35/2015

Manickam

... Petitioner/6th Defendant

-Vs-

Vijayaraman

... 1st Respondent/plaintiff

1. Kaliyammal
2. Periyamayaki
3. Shunmugam
4. Ramanathan
5. Madhavan
6. Palaninathan

...2 to 6th Respondents/ 1 to 5,7th Defendants

7. Velu

...7th Respondent/ 8th Defendant

This petition is coming before me for final disposal in the presence of Thiru.VS.Krishnan learned advocate for the Petitioner/6th Defendant and Thiru.V.Sundar learned advocate for the 1st Respondent/ plaintiff. 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 CPC

1. The averments in the petition are as follows:

The petitioner is the sixth defendant in the main suit. The respondent/plaintiff has instituted a suit seeking suit for Partition and Declaration as Null and Void against the petitioner and the same is pending. On 11.06.2015,

since the petitioner has not appeared before this court to represent the main suit the court has issued an ex parte order against the petitioner. He claims that on the day of the hearing since his relative has died, he was unable to attend the court proceedings and that his non-appearance was not willful and was due to unavoidable circumstances, he also claims that if this petition is not allowed, it would cause irreparable loss and injury to him. Hence he prays for the petition to be allowed.

3. The averments in the counter filed by the respondents are as follows:

The respondent refuses the contentions of the petitioner and says that the petitioner has received summon from the court and has not appeared before the court willfully. Hence on 11.06.2015 an ex parte order was passed against the petitioner. It has been eight years since the ex parte order has been passed, but the petitioner has not taken any steps for a very long time and has now filed this petition. Also, the petitioner has said that he was unable to attend the court proceedings as his relative has died, but he has not mentioned about the details of the relatives in his petition. He also avers that the contentions put forth by the petitioner are contradictory and prays for the petition to be dismissed.

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

Petition and counter perused. Enquiry heard. The petition has been filed under Order IX Rule 7 and Section 151 of Civil Procedure Code seeking to set aside the ex parte order passed against the sixth defendant in the main suit. The petitioner claims in his petition that he was unable to attend the court proceedings on that particular day as one of his relatives has died. Even though the reason given by the petitioner is satisfactory, he has not given reason as to why he has not taken any steps for the past eight years. Keeping in mind the principle of natural justice

‘audi alteram partem’ which translates to hear the other side, it is important to give every party an opportunity to be heard. But at the same time, the court cannot encourage such practises of causing unreasonable delay on the side of the parties in conducting the suit, causing a lag in the court proceedings and also putting the other party concerned in despair. The petitioner has given a valid reason for his non-appearance on the particular date, but the petitioner has not given a valid reason for the prolonged delay. Hence, the court imposes a cost of rupees 2000 on the petitioner, to prevent such acts in the future.

5. Decision

In the end, in order to give the other party, a reasonable opportunity to be heard, this petition is allowed with the cost of ₹2000.

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 Petitioner/Defendant-Nil

List of documents on the side of the Petitioner/Defendant-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.03/2022

in

OS.No.35/2015

Dated: 30.06.2025

Draft/Fair Order
