



IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, THENI

Present: Thiru. Swarnam J. Natarajan, M.L.,

Principal District Judge, Theni

Friday, this the 20th day of February - 2026

I.A.No.08/2026 - In – I.A.No.01/2025

O.S.No.122/2025

Dhakshnamoorthy ... **Petitioner / 3rd Defendant**

-Versus-

1. P. Vijayaraghavan ... **1st Respondent / Plaintiff**

2. Padmavathi

3. Pavitha ... **2nd and 3rd Respondents /
Defendants 1 and 2**

This petition was coming up on 20.02.2026, for today final hearing before me in the presence of Thiru. P. Muralidharan, Advocate for the Petitioner / 3rd Defendant and notice of hearing was sent to the Respondents / Plaintiff and 1st and 2nd defendants and perusing the documents, the case having stood over for consideration till this day, this Court delivers the following :

ORDER

This is the petition filed by the Petitioner / Defendant under Order 9 Rule 7 and section 141 r/w 151 of Civil Procedure Code to set aside the order passed in I.A.No.01/2025 in O.S.No.122/2025.



2. According to the petitioner, he is the 3rd defendant in the above suit and has valid and substantial defenses to contest the case. The petitioner has engaged counsel and vakalat has already been filed on his behalf. The main counsel at Chennai had prepared the written statement, memo and relevant documents and the same were sent for filing before this court on 01.02.2026. However, on the date of hearing, the counsel for the petitioner was unable to appear before this court due to sudden illness. Though a junior advocate was requested to present the written statement and documents, he could not reach the court hall in time and the matter was called and the 3rd defendant was set exparte on 02.02.2026. The non-appearance and the consequent non-filing of the written statement were neither wilful nor wanton, but occurred due to unforeseen and unavoidable circumstances. The written statement and connected documents are filed along with this petition. In the meantime, this Court has allowed the application for Attachment Before Judgment in I.A. No.1 of 2025, since no counter was filed by the petitioner. Unless the exparte order and the consequential order of attachment before judgment are set aside, the petitioner will suffer serious prejudice, irreparable loss and hardship. The non-appearance of the petitioner was neither wilful nor intentional and the failure to file the counter was not intentional but due to unavoidable circumstances. Hence, the present application is filed.



3. The respondents were served with the notice. The petitioner given undertaking that on the next hearing date an affidavit of undertaking would be filed with respect to 1st item of the suit property, which is worth more than Rs.2,00,000,00/- and 1/3rd share of the 3rd defendant would be sufficient to satisfy the decree amount. By recording the said submissions of the petitioner / 3rd defendant's counsel, the attachment order is vacated. Call on 06.03.2026, for filing affidavit of undertaking with respect to 1st item of the suit property. The Attachment already ordered is vacated.

In the result, this petition is allowed. No cost.

Dictated to the Steno-Typist, taken by her in shorthand, transcribed and typed by her with the help of voice recorder, and Microsoft 365, corrected and pronounced by me, in the open court, this the 20th day of February - 2026.

**Principal District Judge,
Theni.**



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O.S.No.122/2025*

The Principal District Court,
Theni.

I.A.No.08/2026 in

I.A.No.01/2025

in

O.S.No.122/2025

Fair / Draft **ORDER**

Date : 20.02.2026

20.02.2026

Principal District Judge, Theni