

(EA. No.01/2025 in EP. No.4/2024)

IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PERIYAKULAM, THENI DISTRICT.

Present: Thiru. C. SANKAR, B.A., M.L., P.G.D.C.F.S.,
Additional District and Sessions Judge,
Periyakulam, Theni District.

Friday, the 27th day of February, 2026.

EA. No.01/2025

- in -

EP. No.4/2024

K.S.Eswaran

... Petitioner/
Respondant

// Vs. //

1. Rathinavelpandian
2. Veluthai
3. Belliyappapandian
4. Dhanalakshmi
5. Subbulakshmi

... Respondents/
Petitioners

This Petition came up for final hearing before this Court on 16.02.2026 in the presence of Mr. V.Rathinam, Learned Counsel for the Petitioners/Respondants and Mr. K. Muthuvel, Learned Counsel for the Respondents/Petitioners and upon perusing the Petition, Counter and Documents and upon hearing both side arguments and having stood over for consideration till this day, this Court delivered the following...

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ORDER

This petition is filed by the petitioner/ respondent under Order 21, rule 106 of CPC to set aside the exparte order passed in this EP.No.4/2024, dated 15.09.2025.

Averments made in the Petition Affidavit in brief is as follows:

2. The respondents filed the original suit seeking relief from the petitioners and filed a petition for enforcement by the court as per the judgment passed in the said suit, and the said petition was filed on 15.09.2025. On that date, the petitioner was unable to appear before court due to ill health. Therefore, an exparte order was passed against the petitioner. There is proper evidence and proper documents on the part of the petitioner in the original suit. Therefore, this petition has been filed by the petitioner seeking to setaside the exparte order dated 15.09.2025 and petition may be allowed.

Averments made in the Counter filed by the respondents in brief is as follows:

3. The affidavit filed by the petitioner/respondent is false, misleading and legally untenable and is therefore rejected. The facts given for the petitioner's absence from the court on account of ill health when the adjournment for hearing the above petition was filed on 15.09.2025 are false. The petition was adjourned for enquiry on 02.04.2025 and the petitioner's side's argument was concluded and the respondent's side's argument was put up for enquiry on 23.04.2025. Since the petitioner did not make

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any submissions on several points, the adjournment was adjourned for order on 10.10.2025 and the petition was allowed and an order was passed. Furthermore, he has filed this petition to delay the proceedings of the petition by making false allegations that he did not appear on 15.09.2025. Therefore, it is prayed that this petition be dismissed with costs.

4. No documents or oral evidence let by the both sides.

5. **Point for determination:**

1. **Whether this petition is allowed or not ?**

Point No.1.

6. The Learned Counsel for the petitioner argued that, the respondents filed the original case seeking relief from the petitioners and filed a petition for enforcement in the court as per the judgment in the said case, and the said petition was filed on 15.09.2025. On that date, the petitioner was unable to appear in court due to ill health. Therefore, a exparte order was issued against the petitioner. There is proper evidence and proper documents on the part of the petitioner in the original case. Therefore, this petition has been filed by the petitioner seeking to quash the exparte order dated 15.09.2025 and order the case to be continued.

7. The Learned Counsel for the respondents argued that, The affidavit filed by the petitioner/respondent is false, misleading and legally untenable and is therefore rejected.

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The circumstances given for the petitioner's absence from the court on account of ill health when the adjournment for hearing the above petition was filed on 15.09.2025 are false. The petition was adjourned for discussion on 02.04.2025 and the petitioner's side's argument was concluded and the respondent's side's argument was put up for discussion on 23.04.2025. Since the petitioner did not make any submissions on several points, the adjournment was adjourned for order on 10.10.2025 and the petition was allowed and an order was issued. Furthermore, he has filed this petition to delay the proceedings of the completion petition by making false allegations that he did not appear on 15.09.2025. Therefore, it is requested that this petition be dismissed with costs.

8. Heard both sides and records perused. This petition has been filed by the petitioner on behalf of the petitioner stating that the petitioner has been subjected to a ex parte order on 15.09.2025 in the petition E.P. 4/2024. But in the petition for E.P. 4/2024, the counter affidavit has been filed by the petitioner on 03.06.2024. The order has been passed after considering the counter affidavit filed by the petitioner in the said petition for E.P. 4/2024. Further, the order has been passed on 13.10.2025 in the Execution petition on the basis of the judgment passed in the original suit No. 233/2021. The petition filed by the petitioner has not mentioned what is the correct explanation for setaside of the said order. Further, the petitioner has taken up the same arguments mentioned in the counter affidavit as the plea of the petitioner in E.P. 4/2024. The petition does not mentioned what kind of loss to the petitioner may suffer if the order passed on 13.10.2025 is not setaside in the petition for E.P. 4/2024. Since the order passed in the Execution petition is already based on the judgment passed in the original suit, no action has been taken by the petitioner to setaside the judgment passed in the

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original suit. The petitioner has not submitted any oral evidence or documents in support of the arguments mentioned in the petition. The learned counsel for the respondents, who have submitted that the petition has been filed with the intention of causing unnecessary delay on the part of the petitioner, while the Hon'ble Supreme Court has directed that the Execution petitions be disposed of within a period of 6 months, is acceptable. Therefore, this Court is of the view that there is no prima facie to allow the petitioner's petition.

9. In the result, this petition is dismissed with costs.

Dictated by me, directly typed by Stenographer into computer, corrected and pronounced by me in the open Court, this the 27th day of February, 2026.

**Additional District and Sessions Judge,
Periyakulam.**

Petitioner/ Respondent side Witnesses and Documents: Nil.

Respondents/Petitioners side Witnesses and Documents: Nil.

**Additional District and Sessions Judge,
Periyakulam.**

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Fair: Order.

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EP.No.04/2024

**Additional District &
Sessions Court,
Periyakulam, Theni District.**

Dated 27.02.2026.