

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

Present: Mr. C.SANKAR, B.A. M.L. PGDCFS.,
Additional District and Sessions Judge,
Periyakulam, Theni District.

Friday, the 3rd day of July, 2026.

IA.No.07/2026

- in -

MCOP.No.160/2023

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Magma HDI General Insurance Company Limited,
Chennai.

... Petitioner/2nd Respondent

// Vs. //

1. Marimuthu

2. Soundrapandiyan

... 1 to 3
Respondents/Petitioners

3. Mareeswaran

4.Manikandan

... 4th Respondent/1st
Respondent

5.Saravanan

... 5th Respondent/3rd
Respondent

This petition came up for final hearing before this Court on 15.06.2026, in the presence of Mr.M. Muruga Dhinakaran, Learned Counsel for the petitioner and Mr.C.S. Murugesan, Learned Counsel for the Respondents 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...

ORDER

This petition has been filed by the petitioner under Order 9, Rule 13 and Section 151 of CPC seeking to set aside the ex parte Order passed on 13.03.2026 against this Petitioner/2nd Respondent and permit to plead the case and pass such further or other Orders as may be deemed just and necessary in the circumstances of the case.

Averments made in the Petition in brief is as follows:

2. The petitioner respectfully submit that the case was posted for appearance on 11.07.2025. Due to the inadvertent misplacement of the case file in office, the Vakalatnama could not be forwarded to counsel for filing. Consequently, no Vakalatnama was filed on behalf of the Petitioner/2nd Respondent, and this Hon'ble Tribunal was pleased to set the Petitioner/2nd Respondent as ex parte on 11.07.2025 and subsequently passed an ex parte order on 13.03.2026. The petitioner submit that the non-filing of the Vakalatnama was neither willful nor wanton, but was due to the above bona fide reason. Unless the ex parte order dated 13.03.2026 is set aside, the Petitioner/2nd Respondent will suffer irreparable hardship. It is, therefore, prayed that this Hon'ble Tribunal may be pleased to set aside the ex parte order dated 13.03.2026, permit the Petitioner/2nd Respondent to contest the petition on merits, and pass such other order(s) as this Hon'ble Tribunal may deem fit and proper.

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

5. **Point for determination:**

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

Point No.1.

6. Heard both sides. Records perused. During the arguments, the learned counsel for the petitioner submitted that the case was posted for the appearance of parties on 11.07.2025; however, the case files had gone missing from the petitioner's office, making it impossible to send the vakalat to the petitioner's counsel within the stipulated time. Consequently, as no vakalat was filed on behalf of the petitioner, the petition proceeded ex parte on 11.07.2025, and an ex parte decree was passed on 13.03.2026; therefore, the petitioner requested that the said ex parte decree be set aside. In response, the learned counsel for the 1st respondent argued that the ex parte decree was issued because, despite the petitioner having previously filed an vakalat and being granted repeated opportunities, they had delayed the proceedings by failing to file a counter-statement. He contended that this petition filed along with a counter-statement after wasting over six years without doing so was not maintainable. He further argued that the reason cited namely, the shifting of the case file to another location was legally untenable, as the petitioner had failed to provide an explanation for the delay incurred on each individual day; thus, he argued before the court to dismiss the petition. This case was taken on file on 12.11.2019 and transferred to this court from the Principal District Court, Theni, on 15.06.2023; following the I.A. No. 03/2023 was allowed on 12.09.2024, the case was restored to the file. While an adjournment had been granted for filing the counter-statement starting from 30.01.2025, the counter-statement was not filed by 17.04.2025; consequently, the petitioner of the main petition was examined as PW1. Subsequently, additional witnesses for the petitioner were examined on 15.09.2025, and P.W. 3 (Petitioner's Witness No. 3) was recalled and examined on 15.12.2025. Arguments on behalf of the petitioner concluded on 30.01.2026, and finally, an ex-parte decree was passed in this case on 13.03.2026.

7. In this case, an ex-parte decree was passed because the petitioner had obtained multiple adjournments to file a counter-statement but failed to do so. The petitioner has now filed the counter-statement for the main petition along with the present petition. As a complete adjudication of the petition is required, this Court is of the view that the petitioner's petition may be allowed, subject to the payment of costs by the respondent.

In the result, this Court ordered that the petitioner should pay a sum of Rs. 3,000/- as costs to the respondents by directly on or before 09.07.2026, failing which the petition will stand dismissed. Call On 10.07.2026.

Dictated by me, directly typed by Stenographer into computer, corrected and pronounced by me in the open Court, this the 3rd day of July, 2026.

Additional District and Sessions Judge,
Periyakulam.

Petitioner side Witnesses and Documents: Nil.

Respondents side Witnesses and Documents: Nil.

Additional District and Sessions Judge,
Periyakulam.

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

Fair: Order

IA.No.07/2026
- in -
MCOP.No.160/2023

Dated 03.07.2026.