

I.A.No.04/2023

O.S.No.94/2022

Date: 01.08.2023.

Orders pronounced in open court,

1) This petition has been filed by the petitioner to set aside the exparte order Under Order 9 Rule 7 of CPC.

2) The case of the petitioner is that when the suit was posted for written statement of the defendant, she was taking treatment due to her illness and so he was unable to meet her counsel and file written statement. The same is not wanton or willful. Hence this petition.

3) The respondents denied the averments that the reasons stated by the petitioner are all false. The contention of the petitioner is not supported by any documents. Hence prayed for dismissal.

4. No witnesses and documents were examined on both sides. Heard both sides. Material on records perused.

5. The point that has to be decided in this petition is,

Whether the petition is to be allowed or not?

6. Discussion

6.1. This court carefully considered the rival contentions raised by both sides. The suit is filed by respondent for the relief of permanent injunction. When the matter was posted for written statement on 20.10.2022 the defendant failed to file written statement and set exparte. The petitioner herein has stated that due to her illness she was unable to file written statement within the stipulated time.

6.2. This court deems fit that no prejudice will be caused to the respondent in allowing the application further in order to show her bonafide the petitioner herein also filed the written statement along with this petition. This court is of the opinion that though no satisfactory reason was stated by the petitioner in order to provide an opportunity this petition is to be allowed and the delay caused is to be compensated by awarding costs.

In the result, this petition is allowed on costs of Rs.500/- payable to respondent/plaintiff on or before 25.08.2023 failing which this petition stands dismissed. For compliance call on 25.08.2023.

Directed by me to typist, typed by her checked, corrected and pronounced by me in Open Court on 01.08.2023.

District Munsif,
Dharapuram.

Petitioner and Respondent side Witnessess:- Nil

Petitioner and Respondent side Documents:- Nil

District Munsif,
Dharapuram.