

**IN THE COURT OF THE DISTRICT MUNSIF, PALLADAM**

**Present:- Thiru. V. Kalidasan, B.Com., L.L.M.,  
District Munsif, Palladam.**

Monday the 24<sup>th</sup> day of February 2025

**I.A. No.10/2025**

**in**

**O.S.No.195/2007**

- 1.V.Karunakaran
- 2.K.Ramkumar
- 3.K.Lakshmanaraj

... Petitioners/Defendants 1 to 3

***/Vs/***

- 1.Marathal
- 2.Rajalakshmi
- 3.Angammal
- 4.T.subramaniam (died)
- 5.Selvi
- 6.Thangaraj
- 7.Minor Naveen, aged about 10,  
Rep by his Mother/Natural Guardian Smt.Selvi

... Respondents/Plaintiffs 1 to 3

... Respondents/Defendants 4 to 7

This Petition is coming on 17.02.2025 for final hearing before me in the presence of Tmt.V.Sakthidevi, Advocate for the Petitioners and Thiru.M.Ponnusamy, Advocate for R1 to R3 has endorsed that no objection to allowed the petition and Thiru.V.Raveendran, Advocate for the Respondents 4 to 7. Upon perusing the Petition, affidavit, counter statement and other connected material papers of record and hearing the arguments of both sides and having stood over till this day for consideration, this court made the following...

**ORDER**

The petitioner filed this petition Under order 9 rule 7 and Section 151 of CPC to set aside the exparte order passed against the 1<sup>st</sup> petitioner on 24.4.2008

and to set aside the ex parte order passed against the petitioners 2 and 3 on 06.02.2013.

1. The case of the petitioners is that, due to the illness of 1<sup>st</sup> petitioner and the petitioners 2 and 3 are the sons of the 1<sup>st</sup> petitioner, were minors at the time of filing of the suit, the 1<sup>st</sup> petitioner were not able to meet his counsel to filing their written statement on 24.04.2008. further the petitioners 2 and 3 were working at several places. Therefore, the petitioners 2 and 3 were also set ex parte on 06.02.2013. The non appearance of the petitioners were not wanton or wilful. The 1<sup>st</sup> petitioner never executed and never prepared any release deed on 28.02.2007 in favour of the 4<sup>th</sup> defendant. The 1<sup>st</sup> petitioner have not received any consideration from the 4<sup>th</sup> defendant. Since, the alleged release deed is fabricated and void one, it will not binding upon the petitioners share over the item 1 of the suit properties. The petitioners are in joint possession and enjoyment of the suit properties with out partition along with the respondents. The petitioners filing this petition with intent to tell the true facts before this court and to get the petitioners share over the suit properties. Hence, prayed to allow this petition.

2. The case of the respondents 4 to 7 is that the 1<sup>st</sup> petitioner is always hale and healthy and he never suffering with the illness paralysis attack. The petitioners are colluding with the plaintiffs and conveniently allowed themselves as ex parte without filing their written statement for all these days. The petitioners are having every knowledge of the proceedings. Sometimes the petitioners came to the court for the hearing dates along with the plaintiffs. After lapse of 18 years and after closing plaintiffs side evidence and during the process of defendants side evidence come forward with the vexatious application in order to confuse and mislead the court. The 1<sup>st</sup> petitioner prepared the release deed dated 28.02.2007 and received the consideration from 4<sup>th</sup> defendant executed the release deed and the same was acted upon. This petition is highly belated one. Hence, prayed to dismiss this petition.

### **3. Points for consideration:**

Whether this petition will be allowed or not ?

### **4. Answer to the point :**

5. Heard both sides. No oral or documentary evidence is let in by both sides.

6. Materials on records perused. It is seen from the records the suit in O.S.No.195/2007 has been filed for partition and other reliefs. This petition was filed by the petitioners to set aside the exparte order against the 1<sup>st</sup> petitioner on 24.4.2008 and to set aside the exparte order against the petitioners 2 and 3 on 06.02.2013.

7. The learned counsel for the petitioners submitted that due to the illness of 1<sup>st</sup> petitioner and the petitioners 2 and 3 are the sons of the 1<sup>st</sup> petitioner were minors at the time of filing of the suit, the 1<sup>st</sup> petitioner were not able to meet his counsel to filing their written statement on 24.04.2008. Further, the petitioners 2 and 3 were working at several places. Therefore, the petitioners 2 and 3 were also were set exparte on 06.02.2013. On the other hand the learned counsel for the respondents 4 to 7 submitted that the 1<sup>st</sup> petitioner is always hale and healthy and he never suffering with the illness paralysis attack. The petitioners are colluding with the plaintiffs and conveniently allowed themselves as exparte without filing their written statement and they having every knowledge of the proceedings.

8. Considering the both side submission and on perusing the entire case records, though the 1<sup>st</sup> petitioner has stated that due to his illness of paralysis attack, he could not meet his counsel to instruct him to file written statement, but he has not filed any documents to show that he suffered illness. The 1<sup>st</sup> petitioner was set exparte on 24.04.2008, but the present petition to set aside the exparte has been filed by the 1<sup>st</sup> petitioner only on 28.01.2025. The petitioners 2

and 3 have set exparte in the above case on 06.02.2013. The petitioners have not stated any satisfactory reasons for filing the above petition to set aside the exparte. Though the petitioners have not stated any satisfactory reasons, in the interest of justice and in order to provide one fair opportunity to the petitioners to contest the case, this court is inclined allow this petition. However, the delay caused by the petitioners has to be compensated by way of payment of cost.

**In the result**, this petition will be allowed on payment of cost of Rs.5000/- to be paid to the respondents 1 to 3 on or before 05.03.2025. Failing which, this petition will be dismissed automatically. For compliance call on 06.03.2025.

Dictated to Typist, and typed directly in computer and corrected & pronounced by me in open Court, on this 24<sup>th</sup> day of February 2025.

**District Munsif,  
Palladam.**

I.A. No.10/2025  
O.S.No.195/2007  
Dated 24.02.2025  
Draft/Fair order  
DMC Palladam