

**IN THE COURT OF THE II ADDITIONAL DISTRICT & SESSIONS JUDGE,
THANJAVUR.**

**Present :Tmt. P.R. Supraja, M.L.,
II Additional District & Sessions Judge,
Thanjavur.**

Friday the 23rd day of August 2024
(Thiruvalluvar Aandu 2055- Aavani Matham 7th day)

I.A. No. 39/2024 in O.S. No. 94/2024

D.B.Senthilkumar**Petitioner/2nd Defendant**

/Vs/

Dr.M.Mohamed Anwar**Respondent/ Plaintiff**

This petition having come up for final hearing before me on **19.8.2024** in the presence of Thiru. **P.Lenin**, Advocate for the Petitioner /2nd Defendant and of **Thiru.A.Rajmohamed**, Advocate for the respondent /plaintiff and upon hearing the arguments of both sides, upon perusal of the entire material records pertaining to the case and the matter having stood over for consideration till this date, this court delivered the following

ORDER

(1) This petition has been filed by the petitioner/2nd defendant under order 9 rule 7 of CPC to set-aside the exparte order passed against the petitioner/2nd defendant on 15.3.2024.

(2) Both side arguments heard. Records perused. The learned counsel for the petitioner would submit that the petitioner is the 2nd defendant in the suit. When the suit was posted on 15.3.2024 the petitioner was unable to

attend court and contact his counsel because of injuries in his leg. Hence, the ex parte order passed against the petitioner/2nd defendant on 15.3.2024 is to be set aside.

(3) Per contra, the learned counsel for the respondent would submit that the reason stated in the petition to set aside the ex parte order is not acceptable one . The petitioner voluntarily not appearing before this court on the date of hearing. The petition is vexatious and not on merits . The learned counsel would further submit that this petition is liable to be dismissed.

(4) I have carefully considered the rival submissions and perused the materials on record. From the records, it is seen that the case was originally posted on 15.3.2024. On that day, even though summons served to the petitioner/2nd defendant, he called absent and remained ex parte. The petitioner stated in his affidavit that due to injuries in his leg he could not attend the court and contact his advocate. In support of the reason stated in his affidavit, he filed the prescription given by doctor, copy of X-ray and receipts for the medicine. The reason stated by the petitioner is acceptable one. Hence, in order to afford one more opportunity to the petitioner to contest the case on merits I am inclined to allow this petition.

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

Dictated to the Steno-Typist, typed by her in computer directly, corrected and pronounced by me in open court, this the **23rd day of August 2024.**

**II Additional District & Sessions Judge,
Thanjavur.**

Petitioner and Respondent side

Exhibits and Witnesses : Nil

**II Additional District & Sessions Judge,
Thanjavur.**

Order

IA. 39/2024 in

O.S.No: 42/2024

Dated: 23.8.2024