

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

**Present : Tmt. A. Malarvizhi, M.L.,
II Additional District & Sessions Judge,
Thanjavur.**

**Tuesday the 6th day of September 2022
(Thiruvalluvar Aandu 2053- Aavani 21st day)**

IA.No.123/2022 in O.S.No.172/2021

S.Saba Srinivasan

..Petitioner/ Defendant

/vs/

K. Parasuraman

...Respondent/Plaintiff

This petition having come up for final hearing before me on 16.8.2022 in the presence of Thiru.**V.C.Kamban**, Advocate for the Petitioner and of Thiru.**S. Sathiyamoorthy**, Advocate for the respondent 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 u/o 9 R.7 of C.P.C. to set aside the exparte order dated 11.3.2022 against the petitioner.

(2) Heard Both sides. Records perused. The petitioner/defendant has filed this petition u/o.9.R.7 of C.P.C. to set aside the exparte order dated 11.3.2022. The petitioner/defendant contended that, the respondent/plaintiff has filed a suit for damages. The suit was posted on 11.3.2022 for filing written statement of this petitioner/defendant. Due to his ill-health he could

not meet his advocate and unable to give instruction to prepare written statement. He met his advocate after he recovered from illness and knew that he was set exparte on 11.3.2022 for his absence and for non-filing of written statement. Unless the exparte order is set aside and his written statement is received, he will be put much hardship. The respondent's counsel argued that, the petitioner has not stated about on what date he felt in ill and from whom he took treatment and this petition is to be dismissed since the petitioner filed it with false reasons.

(3) Considering both side arguments, this court views that since the petitioner has not filed any medical records to show his illness, the reason for the absence of petitioner on 11.3.2022 is not acceptable. It further views that, the reason is formal. But in the interest of justice, this court inclines to give opportunity to the petitioner to contest the main suit. So, this court decides to set aside the exparte order on condition.

Hence, it is ordered that this petition will be allowed on payment of costs of Rs.500/- to the respondent/plaintiff on or before 16.9.2022. Call on 19.9.2022.

Pronounced by me in open court, this the **6th day of September 2022.**

(Sd) A. Malarvizhi

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

Petitioner and Respondent side
Exhibits and Witnesses : Nil

(Sd) A. Malarvizhi
II Additional District & Sessions Judge,
Thanjavur.

Order

I.A.No. 123/2022 in

O.S.NO. 172/2021

Dated: 6.9.2022