

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

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

Thursday the 18th day of January 2024
(Thiruvalluvar Aandu 2055- Thai Matham 4th day)

I.A. No. 249/2023 in O.S. No. 98/2023

T.Mathimaaran

.....**Petitioner/Defendant**

/Vs/

T.Rajakanthan

.....**Respondent/Plaintiff**

This petition having come up for final hearing before me on **4.1.2024** in the presence of Thiru.**R.Sivanesan**, Advocate for the Petitioner/Defendant and of **Thiru.S.A.Ashraff Ali**, 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 under order 9 rule 7 of C.P.C., to set-aside the exparte order passed against the petitioner/ defendant on 21.9.2023

(2) This petition is filed by the petitioner/defendant to set aside the exparte order on 21.9.2023. The petitioner counsel argued that this suit was posted for filing written statement on 21.9.2023. Due to illness, the petitioner could not meet his advocate and gave instructions with relevant documents. So, written statement has not filed on that day. So, he was set exparte. Now the petitioner filed this petition along with written statement. Unless this petition is allowed he will be put

much hardship. So, this petition may be allowed.

(3) The respondent's counsel argued that, the case was posted for filing of written statement on 9.8.2023 to 30.10.2023 for more than 90 days, this petitioner filed this petition without any medical proof for his illness. It is filed to drag on the proceedings. So, the petition will be dismissed.

(4) Both side arguments considered. The petitioner appeared through his counsel in this suit on 9.6.2023. He was given time till 21.9.2023 for filing written statement, but he did not file written statement, even though sufficient time given. He did not file any medical records to show his illness on 21.9.2023. So, the reason stated by the petitioner is not acceptable one. But this petition was filed on the very next hearing on 30.10.2023. Hence, in the interest of justice this court inclines 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 23.1.2024. Call on 24.1.2024.

Dictated to steno-typist typed by her directly and pronounced by me in the open court, this the **18th day of January 2024.**

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

**Petitioner and Respondent side
Exhibits and Witnesses : Nil**

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

Order

IA. 249/2023 in O.S.No: 98/2023

Dated: 18.1.2024