

IN THE COURT OF I ADDITIONAL DISTRICT JUDGE, TIRUNELVELI.

PRESENT: Thiru. D. SELVAM, M.L.,
I Additional District Judge,
Tirunelveli.

Wednesday, the 2nd day of July 2025.

I.A.No. 9/2025 in O.S. No. 35/2020

1. Mahammed Absar Raja ... Petitioner/3rd Defendant

// Versus //

1. Jamal
2. Abdul Rahim
3. Usub (died)
4. Kabeer Riboi
5. Ibrahim
6. Syed Kulam
7. Haji Pazeerappa
8. Meeran Masthan Hussainy
9. Hajer Beevi
10. Naththakar Banu
11. Asisbanu
12. Amir Asha
13. Syedali Fathima
14. Mohamed Maliq Afrideen
15. Absana

... Respondents/Plaintiffs

This petition came up before this court on 27.06.2025 for a final hearing in the presence of Thiru. A.Gnaniyar, Advocate for the Petitioner and R-3 died and Thiru. K.E.Durai, Advocate for the Respondents, and upon hearing both sides' arguments and upon perusing the records and having stood over till this date for consideration, this court delivers the following ...

ORDER

1. This petition has been filed by the Petitioner under Order-9 Rule-7 of the

C.P.C to set aside the exparte order which was passed on 05.02.2025 against the petitioner in the original suit with costs.

2. The brief averments in the petition are as follows:-

The petitioner is the 3rd defendant in the suit. He well versed the facts of the case. The case was adjourned to 05.02.2025 for filing written statement of the petitioner side. But, the petitioner went to Delhi, Chennai and Bangalore for his business purpose and unable to contact his counsel and given the proper instructions to file the written statement. Hence, this court passed the order of exparte against the petitioner. Now, the petitioner filed this application along with the written statement.

3. The averments in the counter filed by the 7th respondent is briefly as follows:-

The petition is not maintainable either in law or on facts. The reason stated in the affidavit is false and denied. In fact, this court given the time to file the written statement from 21.10.2024 to 05.02.2025. After that the petitioner has not filed the written statement and this court passed order of exparte. So, the petition is not maintainable. Hence, this petition may be dismissed with costs.

4. The Point for determination in the petition is:

Whether the petition can be allowed?

5. During the enquiry, no evidence was adduced and no documents were marked on both sides.

6. Answer to the Point: -

(i) Heard both sides. This court carefully perused the affidavit and counter and case records.

(ii) On perusal of the case records, the case is filed for the relief of partition. As per the settled principle, all the necessary parties should be added in the partition cases. So, the petitioner's presence is necessary one, since, the respondent already pleaded that the petitioner's right over the property. So, the objection raised by the respondents is unsustainable. Further, the petitioner has filed his written statement along with this petition. Hence, this court would like to allow this application by the interest of justice.

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

Dictated to the steno-typist Gr.I for direct typing and typed by her in computer, print out taken and corrected and pronounced by me in open court on this the 2nd day of July 2025.

I Additional District Judge,
Tirunelveli.

The petitioners' side witnesses and documents: Nil

The respondents' side witnessess and documents: Nil

I Additional District Judge,
Tirunelveli.

I Additional District Court,
Tirunelveli
DRAFT / FAIR ORDER
IA No.9/2025 in
OS No.35/2020
Dated: 02.07.2025

IA No.9/2024 in OS No.23/2018

30.06.2025

Orders pronounced.

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

I ADJ,