

IN THE COURT OF THE DISTRICT MUNSIF, ARNI.

PRESENT: Miss. D.V.Koperundevi,B.com.,L.L.B.,(Hons)

DISTRICT MUNSIF,

DISTRICT MUNSIF COURT, ARNI.

Tuesday, the 10th day of February 2026.

I.A. No. 02/2025

in

O.S. No. 62/2023.

K.Pazhani

... Petitioner/Defendant

/Vs/

S.Annamalai

...Respondent/Plaintiff

This petition came up before me for final hearing on 05.02.2026 in the presence of Thiru. V.Thanigachalam, Advocate for the Petitioner/Defendant, and Thiru. V.C.Dhinakaran, Advocate for the Respondent/Plaintiff, and upon hearing both sides enquiry and perusing the material records of this petition and having stood over for consideration till this day, this court delivers the following:-

ORDER

The petitioner filed this petition under Order IX Rule 7 and Section 151 CPC.

I. The gist of the averments in the petition:

1. In the affidavit, the petitioner in this petition, and the defendant in the original suit.

2. The above said suit has been wrongly filed by the respondent against the petitioner seeking declaration and injunction over the schedule property.
3. The above-said case was posted for filing written statement on 10.01.2024. The petitioner counsel requested the case related documents from the petitioner to file the written statement. He also requested information for the written statement. As the petitioner searched for the case related documents at his home and could not find them, the petitioner applied for certified copies at the Sub-Registrar Office. As they were not received in a timely manner, the petitioner was unable to meet his counsel in person.
4. When the petitioner met his counsel in person now, the petitioner's counsel informed him that as the written-statement was not filed on his behalf on 10.01.2024 in the above-said case, an exparte order has been passed against the petitioner. Due to the above-said reasons only, the petitioner was unable to appear before the Hon'ble Court and file his written statement was not possible. The aforementioned default was not intentional.
5. The petitioner currently filing the written statement for the aforementioned suit along with this petition. It is highly necessary that this be accepted and the exparte order passed in the aforementioned suit on 10.01.2024 be set aside.
6. Only if the petitioner side of the justice is heard in the said suit will the true facts of the case become known to this Hon'ble Court. Therefore, it

is necessary to provide the petitioner with an opportunity. This will not cause any prejudice to the respondent.

7. Therefore, the petitioner pray to this Hon'ble Court to kindly set aside the exparte order passed against him on 10.01.2024 for not filing the written statement on his behalf in the said suit, and to accept the written statement filed herewith.

II. The averments in the counter filed by the respondent:

1. The petitioner's petition is not valid in law and in justice. It is liable to be dismissed.
2. Except for the facts admitted by this respondent in this counter statement, the petitioner is bound to prove the rest.
3. As per the petitioner's petition, the case was posted for filing a written statement on 10.01.2024, but even before that date, despite the Hon'ble Court having granted various adjournments to the petitioner to file a written statement in the original suit, an exparte order was passed against the petitioner on the said date due to his failure to file the written statement in time. Following the said exparte order, the case was posted for exparte evidence on behalf of this respondent/plaintiff, and despite over 1 year having passed and this petitioner/defendant being given an opportunity to file this petition, he did not file it in time. On 18.08.2025, when the case was posted for judgment, on that very day, after more than 1 year, he has filed this petition with the bad intention of harassing this respondent by causing delay. This petition is not valid in law and in justice.

4. There is no genuine cause of action in the petitioner's petition. Furthermore, the petitioner has no cause of action. The petitioner has filed this false petition with the malicious intent of harassing this respondent. Hence, the petition has to be dismissed with cost to this respondent.

III. Points:

1. Whether the petition under Order IX Rule 7 and Section 151 of CPC to be allowed or not?

IV. Points for Consideration:

Heard on both sides. Records have been perused.

The petitioner, who is the defendant in the original suit, has filed the present petition under Order IX Rule 7 read with Section 151 of CPC seeking to set aside the exparte order dated 10.01.2024 and to accept the written statement filed along with the petition. The case of the petitioner is that though the suit was posted for filing written statement on 10.01.2024, he was unable to file the same due to non-availability of relevant documents, for which he had applied for certified copies from the Sub-Registrar Office, and due to the delay in obtaining the same, he could not meet his counsel in time and file the written statement. According to the petitioner, the default was neither wilful nor intentional and he has now come forward with the written statement and seeks an opportunity to contest the suit on merits, contending that no prejudice would be caused to the respondent if the exparte order is set aside. Per contra, the respondent has filed a counter denying the averments made in the petition and contending that sufficient opportunities were already

granted to the petitioner to file the written statement, that the exparte order was passed due to his continuous failure, and that even after the exparte order, the petitioner did not approach the Court in time and has filed the present petition after more than one year, on the date when the matter was posted for judgment, with the sole intention of delaying the proceedings and harassing the respondent. It is further contended that there is no sufficient cause shown by the petitioner and that the petition is devoid of merits. Upon consideration of the pleadings and submissions, it is clear that the exparte order came to be passed for non-filing of the written statement and that the petitioner seeks to set aside the same before the final disposal of the suit. The settled principle of law is that procedural rules are handmaids of justice and ordinarily an opportunity should be afforded to the parties to contest the matter on merits, unless the conduct of the party is found to be wilful, wanton, or contumacious. Though the respondent has alleged delay and mala fide intention on the part of the petitioner, the fact remains that denial of an opportunity to file a written statement would result in the petitioner being non-suited without adjudication on merits. The respondent can be adequately compensated by costs, and no irreparable prejudice would be caused by permitting the petitioner to contest the suit, whereas refusal would result in grave prejudice to the petitioner. In the interest of justice and to ensure fair adjudication, this Court is of the view that the petitioner has shown sufficient cause to invoke the discretionary jurisdiction under Order IX Rule 7 CPC. Accordingly, the petition is allowed, the exparte order dated 10.01.2024 passed against the petitioner is set aside.

V. Result:

As a result, the petition is allowed, the exparte order dated 10.01.2024 passed against the petitioner is set aside the exparte order passed against the petitioner, and Rs.1,500/- (One Thousand Five Hundred) paid to DLSA, Thiruvannamalai.

Dictated to Steno Typist, and computerized by her directly, corrected and pronounced by me in the open Court, on the 10th day of February 2026.

**District Munsif
Arni**

List of documents & witnesses: N I L

**District Munsif
Arni**