

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, CHEYYAR

THIRUVANNAMALAI DISTRICT

Present :- **Tmt. K. Naleeni, M.L.,**
Principal District Munsif, Cheyyar,
Thiruvannamalai.

Tuesday, the 02nd day of September, 2025

I.A.No.03/2024 in O.S.No.16/2024

Arputham

..... Petitioner/ 5th Defendant

V.

1. Ramakrishnan

..... 1st Respondent/Plaintiff

V.

2. Elumalai

3. Chandira

4. Subramani

5. Kalyani

6. The Tahsildar, Vembakkam

7. The District Collector, Thiruvannamalai

8. The Sub-Registrar, Vembakkam Respondents / 1 to 4, 6 to 8 Defendants

This petition is coming before me on 28.08.2025 for final hearing in the presence of Thiru.V.Munusamy, Learned Advocate for the Petitioner and Respondent 1 have been set exparte for non-filing of counter and Respondents 2 to 8 have already been set exparte in the main suit and after careful perusal of the entire case records and having stood over for consideration till this day, this Court delivered the following:

ORDER

This Petition has been filed under Order IX Rule 7 of Code of Civil Procedure, 1908 to ***set aside the exparte order*** passed on 25.03.2024 in OS. No. 16/2024 on the file of this Court.

2. BRIEF AVERMENTS OF THE PETITION AS FOLLOWS:

The Petitioner is the 5th Defendant in O.S. No. 16 of 2024. The suit was filed by the 1st Respondent/plaintiff for Declaration and Injunction against the Petitioner and 2 to 8 Respondents. The petitioner states that, the suit was posted for appearance of 1, 3, 4 and 5th defendants on 25.03.2024. However, as the petitioner/ 5th defendant were suffering from severe fever, he was unable to appear before the Court and therefore he was called absent and set exparte on 25.03.2024. Hence, this petition is filed by the Petitioner/ 5th Defendant under Order IX Rule 7 of the Code of Civil Procedure, 1908 to set aside the ex parte order passed on 25.03.2024.

3. The Respondent 1 have been set exparte for non-filing of Counter and Respondents 2 to 6 have been set exparte in the main suit.

4. POINT FOR CONSIDERATION:

The sole point to be considered by this Court is whether the present petition can be allowed or not?

5. ORAL AND DOCUMENTARY EVIDENCE:

No oral or documentary evidence was adduced on the petitioner side.

6. DETERMINATION:

Heard and Records perused.

On perusal of the records, it is seen that the Petitioner is the 5th Defendant in O.S. No. 16 of 2024. The suit was filed by the 1st Respondent/plaintiff for Declaration and Injunction against the Petitioner and 2 to 8 Respondents. The petitioner states that, the suit was posted for appearance of 1, 3, 4 and 5th defendants on 25.03.2024. However, as the petitioner/ 5th defendant were suffering from severe fever, he was unable to appear before the Court and therefore he was called absent and set exparte on 25.03.2024. Hence, this petition is filed by the Petitioner/ 5th Defendant under Order IX Rule 7 of the Code of Civil Procedure, 1908 to set aside the ex parte order passed on 25.03.2024.

As per Order IX Rule 7 of the Code of Civil Procedure, 1908, the Court has the power to set aside the exparte order provided **good cause** has been shown by the Defendant for his previous non-appearance. Further, it is to be noted that that there is no prescribed limitation period for filing an application under Order IX Rule 7. This means that the Defendant can apply to set aside the ex parte order at any time, provided he can demonstrate good cause for his non-appearance.

It's well settled law that Applications under Order IX Rule 7 has to be **construed liberally** so as to advance substantial justice. It is seen from the records that the Plaintiff/1st Respondent has filed this suit for Declaration and Injunction against the Petitioner/5th defendant and the Respondents 2 to 8. However, due to non-appearance of the petitioner/ 5th defendant, the suit was set exparte against the him on 25.03.2024.

The reason stated by the Petitioner/ 5th Defendant for non-appearance was on account his illness. However, medical records has neither been produced nor he has examined himself to support his contention. It is also noted that there

is no objection from the Respondents side in allowing this Petition.

Upon considering the nature of the suit, this court is of the view that, being a Court of first instance preventing the petitioner/ 5th defendant from contesting the claim of the Respondent 1/plaintiff on merit will cause irreparable loss to the petitioner/ 5th defendant. Eventhough, the petitioner has not shown good cause for his non-appearance, however, in the interest of justice and to avoid multiplicity of proceedings, this Court finds that an opportunity ought to be given to the petitioner to appear and contest the original suit by setting aside the ex-parte order dated 25-03-2024 in O.S.No.16 of 2024. However, this order would be effective only when the Petitioner /5th defendant files his written statement and hence, the Petitioner/5th Defendant is directed to file the written statement within 22.09.2025 respectively.

Accordingly, the exparte order passed is set aside and the petition is hereby allowed.

7. RESULT :

In the result, this petition is hereby allowed. No order as to costs.

Dictated by me to the Steno typist, directly typed by her, corrected and pronounced by me in open court, on this the 02nd day of September 2025.

Principal District Munsif,
Cheyyar.

8. List of Witnesses:

On the side of the Petitioner : NIL
On the side of the Respondents : NIL

9. List of Documents :

On the side of the Petitioner : NIL
On the side of the Respondents : NIL

Principal District Munsif,
Cheyyar.