

**In the court of the District Munsif cum Judicial Magistrate, Kilpennathur**  
**Present: Tr.M.C.Arun., LLB.,**  
**District Munsif cum Judicial Magistrate,**  
**Kilpennathur**  
**Dated this Tuesday, the 14<sup>th</sup> day of October 2025**

**IA No.1/2025 in OS 106/2024**

1. Thangaraj  
2. Chakaravarthi  
3. Backiyammal

...Petitioners/Defendants 2, 1, 3

Vs

Shanmugam

...Respondent/Plaintiff

This petition comes before me on 15.10.2025 for final hearing in the presence of Tr.M.Murugan, MA., B.L., learned counsel for the for the Petitioners/Plaintiff and Tr.N.Elangovan, B.A., B.L., Advocate learned counsel for the Respondent/Defendant and upon perusing the case records having stood over for considering till this day, this court delivers the following;

**ORDER**

This Petitioner is filed by the petitioner/Defendants U/o 9 Rule 7 CPC prays to set aside the exparte order against the defedants dated 17.03.2025.

**1. Crux of the Petition:**

The petitioner submits that on behalf of the Defendants D1,D3 he submit this petitions and stated that he received the summon to appear before the court on 17.03.2025 but this petitioners/defendnat could not appear before on that day due to gridiness and fainting which results he became unconsiusosness and then he went for hospital for the treatment and then he came to the court where he was informed that the court set D1 to D3 exparte. Hence this petitoiner prays to set aside the exparte order against D1 to D3 dated 17.03.2025.

**2. Averments of the Respondent:**

The respondent/plaintiff submits that allegations contained in the affidavit filed by the Petitioners/Defendants are denied as false and incorrect, except those expressly admitted herein. The petitioner filed this petitioner only to drag this

proceedings of the case and there was not medical documents filed to support his reason and so prayed to dismiss the petition with heavy cost.

**3. Point for consideration:**

Heard. Records perused the counsel for the petitioner filed this petition submitted that petitioner appeared could not appear before the court due to illness such as gridiness and fainting which resulted set him exparte by this curt. Whereas the counsel for the respondent sumitted that the reasons stated by the petitioner is not supported with medical documents and prayed to dimiss the petition. This court perused the petitioner and observed that the petitioner himslef admitted that he appeared in the court for after he was set exparte but this petition to set aside the exparte order 17.03.2025 is filed only after 3 months (i.e) 14.07.2025. However, now this petitioner/defendants comes to this court with this petition to set aside the exparte order and this court being the trial court it is very necessary to allow this petition and the plea of the petitioner is also acceptable one. Since this court only deals the matter with regard to question of facts and without giving an opportunity to the defendant to conduct trial through their appearance and dismissing this petition will not be fair for the ends of justice and the principles of natural justice also shall be followed by this court inorder to give an opportunity to the defendant.

In the result, this court is inclined to allow this petition with cost of Rs.1000/- and same to be paid to the respondent/plaintiff counsel on or before 03.11.2025.

**District Munsif cum Judicial Magistrate,  
Kilpennathur**

Petitoner Side Evidence & Document : Nil  
Respondent Side Evidence and Document : Nil

**District Munsif cum Judicial Magistrate,  
Kilpennathur**