

**IN THE COURT OF THE II ADDITIONAL DISTRICT JUDGE,
TIRUCHIRAPPALLI**

Present : **Thiru B.Saravanan, B.Sc., B.L.,**
II Additional District Judge, Tiruchirappalli

Friday, the 22nd day of March 2024

Interlocutory Application No.2/2023

in

Original Suit No.300/2021

Sebco Property Private Limited
Rep., by its Managing Director
J.S.Leyronne Morais,
No.24D, Mahalakshmi Nagar,
K.K.Nagar,
Trichirappalli – 620 021.

... Petitioner / 1st Defendant

Vs.

B.Balamurali
S/o Balamuthu
D.No.5/146, Mela Theru
Thiruvallarchipatti, Airport,
Tiruchirappalli – 620 007.

... Respondent/ Plaintiff

This petition came up before me on 21.03.2024 for final hearing in the presence of Thiru. T.Ganesh Kumar, counsel appearing for the Petitioner/ 1st Defendant and of Thiru B.Perumal, counsel appearing for the Respondent/ Plaintiff, upon perusing the petition, counter and documents on record and upon hearing the arguments of both sides, having stood over the consideration till this day, this court delivers the following,

ORDER

1. This petition filed by the Petitioner/1st Defendant Under Order 9 Rule 7 of and Section 151 of Civil Procedure Code to set aside the ex parte order passed against the Petitioner/1st Defendant in the suit on 09.12.2022 and to permit the Petitioner/1st Defendant to file the written statement and to contest the case on merits.

2. The learned counsel for the Petitioner/1st Defendant would submit that the Respondent/Plaintiff has filed the suit for specific performance and other reliefs. He further submits that this case was posted on 09.12.2022 for filing written statement of Petitioner/1st Defendant. However, the Petitioner/1st Defendant was not well and suffered from viral fever for a long period, hence he could not meet his counsel to give particulars for preparing written statement and this court has set him ex parte. He further submits that now the petitioner has filed this petition along with written statement and he is having valid defense in the suit, if this petition is not allowed he will be put to irreparable loss and hardship. Hence he prays to allow this petition.

3. Per contra, the learned counsel for the Respondent/Plaintiff would submit that all the averments stated in the petition are denied as false and there is no valid reason stated in the petition, no documents were filed that he was suffered from illness. However he prays that the petition may be allowed on heavy cost.

4. Both sides heard and also perused the records.

5. The Respondent/Plaintiff filed the suit for specific performance based on the sale agreement dated 04.01.2020 and for other reliefs. This case was posted on 09.12.2022 for filing written statement of Respondent/1st Defendant, but they have not filed the written statement, hence the Petitioner/1st Defendant was set *ex parte* in the suit on that date. It is stated in this petition that the Petitioner/1st Defendant was suffering due to viral fever during that period, hence he could not meet his counsel to give particulars for preparing written statement. The reason is acceptable one. If the Petitioner/1st Defendant is not given sufficient opportunity to contest the case, he will be put to irreparable loss and hardship. On the other hand the respondent will be compensated by way of cost. Hence this petition is liable to allow on payment of cost.

6. In fine,

This petition will be allowed on payment of cost of Rs.750/- (Rupees Seven hundred and Fifty only) to be paid by the Petitioner/1st Defendant directly to the Respondent/Plaintiff on or before 01.04.2024, failing which this petition shall stand dismissed automatically. For compliance of conditional order call on 01.04.2024.

Dictated to the Stenographer, transcribed by her, corrected and pronounced by me in the open court, this the 22nd day of March 2024.

**II Additional District Judge,
Tiruchirappalli.**

List of documents and witnesses on both side: Nil.

**II Additional District Judge,
Tiruchirappalli.**