

IN THE COURT OF PRINCIPAL DISTRICT JUDGE AT TIRUVALLUR
PRESENT: Tmt.J. JULIET PUSHPA, B.Sc, M.L.,
Principal District Judge, Tiruvallur

Monday, the 17th day of November, 2025

IA No.1/2025 in Transfer OP No.360/2024
(CNR No.TNTR010104952024)

Praveen Kumar

....Petitioner/ respondent

/Vs/

Bhuvaneswari,

...Respondent/petitioner

This petition coming on 14.11.2025 before me for final hearing in the presence of M/s. R. Kalamegam, S. Priya, G. Pasuvalingam, V. Rajesh, N. Praveenraj, , Learned Counsel for the Petitioner/Respondent and M/s N. Maaran, Learned Counsel for the Respondent/ Petitioner, upon hearing arguments on both sides, perusing the materials on records and having stood over for consideration till this date, this Court delivered the following:-

ORDER

This Petition is filed by the Petitioner Under Order 9 Rule 13 of CPC to set aside the exparte Decree in Transfer OP No.360/2024 dated 22.07.2025.

2. The averments in the petition in brief :

According to the petitioner/respondent , he is the respondent in the main Original petition which was filed by the respondent seeking to withdraw the petition in HMOP. 72/2024 from the file of Principal Sub Court, Ponneri and to transfer the same to the file of Sub Court, Poonamallee . On 01.04.2025, he was called absent, set exparte and exparte decree was passed on 22.07.2025. After the receipt of the notice in

the transfer OP No.360/2024, the petitioner had planned to appear before this Court on 01.04.2025. But, on the day he could not appear due to sudden illness of his mother Sumathi, who is a psychiatric and cardiac patient and under the treatment. As a single child, the petitioner was bound to look after her in the hospital, due to which he could not appear on 01.04.2025. Hence his non appearance on 01.04.2025 is neither willful nor wanton. Only after passing of the ex parte decree, he came to know about the same. Therefore, unless the ex parte decree is set aside, he will be put to undue hardship and difficulties, hence prayed to set aside the ex parte decree dt. 22.07.2025.

3. The respondent has not contested this petition but endorsed as “no counter” and prays for allowing the petition on costs.

4. No oral or documentary evidence adduced on either side.

5. Now, the point for consideration is

1. Whether the petitioner is entitled for the relief as prayed for?

2. Whether the petition is to be allowed ?

6. POINT:

Heard both side and records perused. Both side written arguments filed.

This petition is filed by the petitioner to set aside the ex parte decree of divorce dated 22.07.2025.

7. The case of the petitioner is that due to non-appearance of the petitioner, he was called absent and set ex parte in the main Original petition and ex parte decree was passed on 22.07.2025 thereby transferring HMOP. 72/2024 from the file of

Principal Sub Court, Ponneri to the file of Sub Court, Poonamallee . The petitioner states that due to illness of his mother prior to 01.04.2025 and also subsequently she was under medication, as a single son, he was constrained to look after his mother, due to which he could not appear and contact his counsel, hence, unable to attend the court, hence he was set exparte and exparte decree was passed.

8. On perusal of records, it is shown that the original petition is filed by the respondent for transferring HMOP. 72/2024 from the file of Principal Sub Court, Ponneri to the file of Sub Court, Poonamallee . On 01.04.2025, on the first hearing after the service of notice, when the case was posted for appearance of petitioner/respondent , the petitioner was called absent , no representation, thus he was set exparte. Thereafter, after hearing the enquiry from the petitioner side, exparte evidence was taken and after hearing the enquiry of the respondent herein, who is the petitioner in the Transfer petition, exparte decree was passed on 22.07.2025.

9. The learned counsel for the respondent has not contested the matter by endorsing “no counter” but prayed to allow the petition on costs.

10. On perusal of records, it is seen that there is no delay in filing this petition , i.e. this petition was filed on 22.08.2025 , within 25 days from the date of exparte decree.

11. Even though the petitioner has not adduced any documentary evidence for his non-appearance, the reason stated by him that his mother who is a cardiac and psychiatric person was affected by illness appears probable and acceptable. The petitioner was set exparte for on the first hearing after service of notice in the

Original Petition. Admittedly, the petitioner has come forward with this petition along with Counter for the main Original petition.

12. So, considering the plea of the petitioner with leniency, in order to give an opportunity to the petitioner to prove his case, as both the parties will be benefited in deciding the matter on merits rather than by exparte order, as there is no delay in filing this petition and in the interest of justice, also considering the other facts and circumstances, this Court is inclined to allow this Petition.

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

Dictated to Steno-typist, taken down, transcribed and typed by her, corrected and pronounced by me in Open Court, this the 17th day of November, 2025.

**PRINCIPAL DISTRICT JUDGE,
TIRUVALLUR**

Petitioner side Witness/Exhibits : - Nil -

Respondent side Witness/Exhibits : - Nil -

**PRINCIPAL DISTRICT JUDGE,
TIRUVALLUR**