

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Selvi.A.Keerthana, B.A., L.L.B.,
District Munsif, Ponneri.

Monday, the 16th day of February 2026.

I.A.No.4 of 2024
In
O.S. NO.121 of 2008

T.C.Venkatesh & Gowrishankar

.....Petitioner/3rd Defendant

Versus

1. S.Pachaikani Nadar (Deceased)

2. Maharajan

3. Shanmugasundaram

4. Rajakani

5. Shantha

6. Vijaya (the plaintiffs 2 to 6 were added as per
order dated 19.02.2020 in IA.No.461/2017)

..... Respondents/Plaintiffs

7. The District Collector, Thiruvallur District.

8. The Tahsildar, Ponneri Taluk.

9. P.Thiruvengadam

..... Respondents/Defendants 1, 3, 4

This petition came up before me for final hearing on 12.02.2026 in the presence of Mr.R.R.Mohanaraja, Learned counsel for the Petitioner/3rd Defendant and Mr.N.R.Gopaalan, Learned counsel for the Respondents/Plaintiffs. The Respondents 7 and 8 were exparte in this petition. The 9th Respondent suit dismissed as against counter not necessary. Upon hearing the arguments both sides, and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

This petition has been filed under Order IX Rule 7 of CPC to set aside the exparte order dated 24.03.2009 as against the petitioner/3rd defendant in OS.No.121/2008.

2. Brief averments of the affidavit filed by the petitioners are as follows:

The petitioner herein is the 3rd defendant in the suit. One Pachaikanni Nadar had filed the above suit seeking declaration declaring the act of the 2nd defendant in having transferred the patta in respect of the suit lands in favour of the 3rd defendant is invalid and illegal and consequently restraining the 2nd defendant from making any further transfer of patta in respect of any of the suit lands and for a mandatory injunction directing the 2nd defendant to restore the patta in the name of the plaintiff and for other reliefs as against the petitioner as well as the other defendants herein. After the receipt of the summons, the petitioner had filed vakalath through counsel in the above case before this court on 21.07.2008. Due to the petitioner's ill health and family situation, he was unable to approach his counsel and miserably failed to appear before this court on 24.03.2009 and subsequent proceedings. Consequently was set exparte by this court in the failure is neither willful nor wanton but for the reasons as stated as above. Therefore, it is just and necessary to set aside the exparte order dated 24.03.2009. Unless the set aside petition is allowed, he will be put to irreparable financial loss and hardship. Hence this petition.

3. Brief averments of the counter filed by the 3rd respondent and adopted by the Respondents 2 and 4 to 6 are as follows:

3.1. The respondent submits that the petitioner/3rd defendant who having filed the vakalat on 21.07.2008 did not file the written statement even after number of opportunities. He was set exparte for non-filing of the written statement on 24.03.2009. An exparte order cannot be set aside as a matter of routine and for the simple reason that the petitioner makes such a prayer. There should be a valid reason

and proof for the said reason. Further the petitioner should have shown diligence in appearing in the court on the hearings dates and following the case. The reason given in the affidavit is “due to ill health and petitioner family situation. The petitioner has not given the details as to the nature of the illness and the period of treatment. Likewise no material facts have been stated regarding the generic averment of the family situation. The petition has been filed nearly 15 years after the exparte order was passed.

3.2. The petitioner has made a very vague averment that he came to know about the exparte order through one of his reliable sources in the recent days. The petitioner has not given the details about his so called one of the reliable sources and when actually he came to know about the exparte order. The petitioner has alleged in the written statement dated in June 2024 filed by him in this suit that he has sold the lands in schedule ‘A’ of this suit to the defendants 12 and 13 in O.S.No.187 of 2007 on the file of this court and to another person Kaniyan Poonkundran. The entire trial in this suit was over several years ago. In fact even the arguments on behalf of the plaintiffs were advanced. But the then sole plaintiff Mr.Pachaikani Nadar was dead after that. The petitioner had watched the entire proceedings and had filed this belated petition. This petition filed after the entire trial was over is not sustainable and is to be dismissed.

4. Evidence :

Neither the petitioner nor the respondents have placed any oral or documentary evidence before this court.

5. Point for determination :

Whether this petition can be allowed or not.

6. Discussion and findings :

6.1. Heard both sides. Records perused. The present petition has been filed by the petitioner/third defendant seeking to set aside the ex parte order dated 24.03.2009, which came to be passed on account of non-filing of the written statement. The explanation offered by the petitioner is that he was unable to contact his counsel and, owing to inadvertence, the matter was allowed to proceed exparte. Despite the grant of sufficient opportunity, the petitioner failed to appear on the relevant date, resulting in the exparte order. In such circumstances, this Court is not inclined to accept the plea of “inadvertence” as canvassed by the petitioner. It is also pertinent to note that the present application itself was earlier dismissed for default on account of non-prosecution, as the petitioner failed to conduct the enquiry. Subsequently, by order dated 28.01.2026 in I.A. No. 5 of 2025, the petition was restored to file.

6.2. Be that as it may, it is evident that the present petition has been filed only on 10.06.2024, nearly a decade after the passing of the exparte order. The delay is undoubtedly colossal and remains insufficiently explained in strict terms. Nevertheless, this Court is conscious of the settled principle that procedural laws are handmaids of justice and not its mistress. Denial of an opportunity to contest the matter on merits would have the effect of foreclosing the defence of the petitioners/defendants altogether. Such a course may give rise to further rounds of litigation, thereby leading to multiplicity of proceedings, which ought to be avoided in the interest of justice.

6.3. Having regard to the overall facts and circumstances of the case, and considering the nature of the dispute, this Court is of the considered view that one final opportunity deserves to be granted to the petitioners to put forth their defence, in the interest of justice and to ensure that the matter is adjudicated on merits rather than on technicalities. However, the petitioner/3rd defendant, is hereby directed to get along with the case and co-operate with its expeditious disposal, especially keeping in view the year of this suit. Accordingly, while setting aside the exparte order dated

24.03.2009, this Court deems it appropriate to impose suitable conditions so as to compensate the plaintiffs/respondents for the prolonged delay and the inconvenience caused to them.

7. RESULT :

In the result, this petition is allowed on condition that the Petitioner/3rd Defendant shall pay a costs of Rs.2,000/- to the Respondents/Plaintiffs on or before next hearing. On failure to adhere the above condition, this petition shall stand automatically dismissed without any further orders call on 25.02.2026.

Dictated by me to the stenographer, directly typed by her in her desktop, corrected and pronounced by me in the open court on this the 16th day of February 2026.

**DISTRICT MUNSIF
PONNERI**

Both side witnesses and documents:- NIL

**DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.4/2024
O.S.No.121/2008
Date: 16.02.2026
DMC, PNI.