

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

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

Thursday, the 04th day of December 2025.

IA No.3 OF 2020

in

O.S. NO.170 OF 2014

1. P.S.Mani Nadar
2. Bramma Sakthi
3. Jayashree
4. Latha
5. Bhavani
6. Chandra

..... Petitioners/Defendants 1 to 6

Versus

B.Hakkim Sait

.....Respondent/Plaintiff

This petition came before me on 04.12.2025 for final hearing in the presence of Mr.N.R.Anantha Rama Krishnan, learned counsel for the petitioners/defendants 1 to 6, Mr.R.Manickavelu, learned counsel for the Respondent/plaintiff. Upon hearing the arguments made by the learned counsels for the petitioners and the Respondent and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following

ORDER

1. This petition has been filed under Order IX Rule 13 Read with Section 151 of Civil Procedure Code to set aside the exparte decree dated 28.01.2020 passed in OS.No.170 of 2014.

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

The petitioners herein are Defendants 1 to 6 in the suit. The respondent had filed the above suit before this Court seeking a declaration that the sale deed dated 26.07.2013, executed by the defendants in favour of the 7th defendant, is null and void, and also seeking a permanent injunction against the alleged interference in respect of the suit property. The 7th defendant had entered appearance through a separate counsel. The petitioners were ready to appear in the suit and contest the case at trial. Only recently, they came to know that their counsel had not informed them about the trial, while the respondent was claiming that the suit had ended in his favour. It was only then they came to know that an ex parte decree dated 28.01.2020 had been passed in the suit in favour of the respondent, as though the petitioners had not contested the matter. The petitioners were ready to appear for trial and had been waiting for information from their erstwhile counsel regarding the hearing dates. The petitioners were kept in the dark about the proceedings due to the negligence of their counsel. Hence, this petition.

3. Brief averments of the counter filed by the Respondent/Plaintiff are as follows:

The respondent submits that the petitioners have not mentioned the 7th defendant as one of the respondents in their petition. The petitioners were absent from 24.07.2019 onwards. The respondent states that the petitioners had previously filed a petition to set aside the ex parte order under Order IX Rule 7 of the CPC. On 20.08.2019, those petitions were numbered as I.A.No.1/2019 and I.A.No.2/2019. Thereafter, no steps were taken by the petitioners in respect of the said petitions, and they were dismissed on 26.11.2019. The petitioners never showed any interest in prosecuting the said petitions. Hence, this petition is liable 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. Upon consideration of the facts placed on record, this Court is of the view that it is not in dispute that the petitioners/defendants had engaged counsel to represent them in the suit and were under the bonafide impression that they would be informed of the trial dates in due course. The petitioners have categorically stated that they were ready to contest the matter on merits and had never intended to remain absent from the proceedings. Their consistent stand is that they were kept completely unaware of the subsequent hearing dates owing to the lapse and negligence of their erstwhile counsel. The petitioners came to know of the exparte decree only when the respondent claimed that the suit had been decreed in his favour. Such circumstances proves that the petitioners were prevented by sufficient cause from appearing before the Court when the matter was taken up for trial.

6.2. In view of the reasons discussed above, this Court is of the opinion that the petitioners ought to be afforded an opportunity to contest the suit so that the matter may be adjudicated on its merits and to avoid multiplicity of proceedings. Accordingly, this Court is inclined to allow the present petition. However, in order to compensate for the delay and the inconvenience caused to the respondent/plaintiff, the petition shall stand allowed subject to the following conditions.

7. **Result:**

In the result, this petition is allowed on following conditions:-

(i) The petitioners/defendants shall pay a sum of Rs.2000/- to the respondent/plaintiff on or before 15.12.2025.

(ii) The petitioners/defendants shall cross examine the witness PW1 on next date of hearing i.e. 12.12.2025, subject to appearance of PW1.

On failure to comply the above conditions on next hearing, this petition shall stand automatically dismissed without any further orders. For reporting compliance call on 15.12.2025.

Dictated by me to the steno-typist, who directly typed the same, corrected and pronounced by me in the open court, on this the 04th day of December 2025.

**DISTRICT MUNSIF
PONNERI**

Both side witnesses and documents:- NIL

**DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.3/2020
O.S.No.170/2014
Date : 04.12.2025
DMC, PNI.