

**IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.**

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

Friday, the 06<sup>th</sup> day of March 2026.

**M.P. NO.7 OF 2024**

**in**

**RCOP No.2 of 2014**

Sri Saraswathi Educational Trust, Represented  
 by its Secretary Mr.S.Arivazhagan

..... Petitioner/1st Respondent

Versus

1. Naveen Chakravarthy

..... 1<sup>st</sup> Respondent/Petitioner

2. Sri Saraswathi Educational Trust, Represented  
 by its Chairman Mr.S.Ananthanarayan

3. Sri Saraswathi Educational Trust, Represented  
 by its Treasurer Mr.S.B.Ugamraj

..... Respondents 2, 3/Respondents 2,3

This petition came up before me for final hearing on 19.02.2026 in the presence of Mr.S.Dinesh Babu, Learned counsel for the Petitioner/1st respondent and Mr.R.Maharajan, Learned counsel for the 1<sup>st</sup> Respondent. The respondents 2 and 3 already been set exparte in the main RCOP, hence notice to them is dispensed with in this petition. 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 9 Rule 7 Read with Section 151 of Civil Procedure Code to set aside the exparte order passed against petitioner/1st Respondent on 01.07.2014 in the RCOP No.2 of 2014.

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

2.1. The petitioner herein is the Founder Trustees and the Secretary of the Sri Saraswathi Educational Trust/1st Respondent herein. The petitioner filed by the

above RCOP No.2 of 2014 as against the Secretary, Chairman and Treasurer of the Sri Saraswathi Educational Trust. In the above case Treasurer namely Mr.S.B.Ugamraj was died on 29.09.2016 itself. The Sri Saraswathi Educational Trust entered into lease agreement between the erstwhile owner namely P.V.R.R.Mani Kumar in respect of the Petition mentioned property was expired long back and no lease subsists as between the Naveen Chakravarthy and Sri Saraswathi Educational Trust. Therefore there is no landlord and tenant relationship as stated by the Naveen Chakravarthy in the above case. We have engaged Mr.R.Suresh Kumar, Advocate, Ponneri on behalf of all the respondents namely Secretary, Chairman and Treasurer of the Sri Saraswathi Educational Trust and the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents in the Main RCOP have filed counter on behalf of the Sri Saraswathi Educational Trust on 22.03.2016 itself.

2.2. The above RCOP No.2/2014 is dismissed for default on 27.07.2017 itself due to no representation of the petitioner side, since enquiry is pending for nearly one year that is from 18.04.2016 to 27.07.2017. The above RCOP.2/2014 the 3<sup>rd</sup> respondent namely Treasurer of the Sri Saraswathi Educational Trust Mr.S.B.Ugamraj was died on 29.09.2016 itself. Hence the Naveen Chakravarthy did not proceed with the case and he allowed to dismiss the case for default. The factum of death of 3<sup>rd</sup> Respondent is very well known to the petitioner/Naveen Chakravarthy in the above case, but he failed to inform the same before this court and he played fraud into the court in order to get exparte order as against the Sri Saraswathi Educational Trust by illegal manner.

2.3. Subsequently, the petitioner/Naveen Chakravarthy filed Section 5 application to restore the RCOP No.2 of 2014 but no notice was served in the above petitions and subsequently the above RCOP.2 of 2014 was restored on 15.07.2022. Thereafter the petitioner/Naveen Chakravarthy filed Two M.P.No.5 of 2022 for reception of document, which was allowed on 17.10.2022 without notice to other side and another M.P.No.6 of 2024 for amend the schedule of property in RCOP 2 of 2014 under order 6 Rule 17 CPC, which was allowed on 30.07.2024 even without notice to other side.

In the above case the 3<sup>rd</sup> respondent was died on 29.09.2016 itself and as against dead person the Petitioner/Naveen Chakravarthy got exparte order on 14.09.2024 by suppressing the factum of death of Mr.S.B.Ugamraj.

2.4. Since the petitioner/Naveen Chakravarthy in main RCOP had mortgaged the petition mentioned property on 23.05.2011 by registered Mortgage of Deposit of title deeds vide Doc.No.6908/2011 on the file of SRO, Ponneri to and in favour of M/s.Panjab National Bank, T.Nagar, Branch and another mortgaged deed dated 13.03.2014 by registered Mortgage of Deposit of title deeds vide Doc.No.2483/2014 on the file of SRO, Ponneri to and in favour of M/s.Punjab National Bank, T.Nagar, Branch and got loan amount of Rs.4,99,00,000/- and the petitioner/Naveen Chakravarthy failed to clear the bank loan, hence the bank took action as against the Naveen Chakravarthy and sold the petition mentioned property by Bank Auction sale to and in favour of the J.Pearly Cynithia, 2. J.R.Abel Robin Kenneth, 3. J.R.Isaiah Ranjithkumar, 4. Premakumari Rosalind, 5.D.Johnraj and J.Christina. The Bank Auction sale was duly reflected in the encumbrance Certificate on 24.06.2022 as Doc.No.11/2022 on the file of SRO, Ponneri in respect of schedule mentioned property.

2.5. The petitioner/Naveen Chakravarthy is not owner of the petition mentioned property, since the same was sold by bank Auction sale and the Bank Auction purchasers are proper and necessary parties in the above case. Therefore the above RCOP petition is liable to be dismissed for non joinder of aforesaid Bank Auction Purchasers. The petitioner/Naveen Chakravarthy suppressed entire facts of death of 3<sup>rd</sup> respondent, and his bank loan, Bank Auction sale in respect of petition mentioned property and deposed false evidence before this court without informing the opposite party was already died. Only escape from his bank loan and Bank Auction sale, the Petitioner/Naveen Chakravarthy trying to get exparte order of eviction through this court as if he is owner of the petition mentioned property.

2.6. The petitioner submit that the petitioner have appointed as Secretary to Shri Saraswathi Educational Trust as per the registered Supplemental Deed of Shri

Saraswathi Education Trust vide Doc.No.59/2023 dated 28.03.2023 and he is continuing and managing the above Trust till date as per above Supplemental Deed and Resolution. The previous counsel not properly informed the case status of the above case and due to advocate's non communication the petitioner could not able to conduct the above case. Recently the petitioner engaged present advocate to conduct and follow the above case by filing necessary vakalath. Since the Petitioner/Naveen Chakravarthy openly claimed that he got order against the Sri Saraswathi Educational Trust by illegal manner and no one stop his illegal acts. Hence immediately the petitioner engaged present advocate to get papers from court by applying certified copies in the above case, then only the petitioner came to know the exparte order passed as against him and the petitioner Naveen Chakravarthy played fraud in this case to get favourable order as against dead person of Sri Saraswathi Educational Trust. This application to set aside the exparte order passed against 1<sup>st</sup> respondent on 01.07.2014 in the above RCOP No.2 of 2014. Hence it is just and necessary to set aside the exparte order passed against the petitioner in the above case. Hence, this petition.

**3. Brief averments of the counter filed by the 1<sup>st</sup> respondent are as follows:**

3.1. The 1<sup>st</sup> respondent filed the above RCOP suit against petitioner and 2, 3 respondents under the category of Secretary, Chairman and Treasurer of Sri Saraswathi Educational Trust, the Trust was registered under the deed. The respondents 1 to 3 in main RCOP 2 of 2014 entered lease agreement in January 2005 with the father of Naveen Chakravarthy/1st Respondent agreeing to pay the monthly rent Rs.1,20,000/- as per agreement one month rent alone paid subsequently the respondents are continuous default in payment of rent. The landlord P.V.R.S.Manikumar executed the register settlement deed in favour of his son Naveen Chakravarthy in respect of property described in RCOP 2 of 2014 executed on 07.01.2011 and duly acted upon. As per settlement deed Naveen Chakravarthy become in title owner of property and filed the above RCOP suit for eviction against respondents and surrender possession to the petitioner/landlord.

3.2. The respondents 1 to 3 in main RCOP continuous absent and there is no representation hence ex parte order passed and posted for petitioner evidence, the petitioner filed the proof affidavit in chief and marked the documents P1 to P8 as exhibits, subsequently the counsel for petitioner argued the case and posted for orders on 03.12.2024 the present counsel filed petition to set aside the ex parte order dated 01.07.2014 against the Secretary in Saraswathi Educational Trust petitioner/1st respondent. The Chairman and Treasurer ranked as 2 and 3 respondents in the present petition. Sri Saraswathi Educational Trust is governed under the registered deed represented by Secretary, Chairman and Treasurer, therefore the present petition should have been filed with three office bearers. Whereas the Secretary alone filed the petition others namely chairman and Treasurer ranked as 2 and 3 respondents which is not correct and against the Trust deed.

3.3. The petitioner/1st respondent should have been filed to transpose petition by filing separate affidavit and petition against 2 and 3 respondents, the present petition is set aside the ex parte order against petitioner/1st respondent is not valid as per law. The ex parte order against 1 to 3 respondents in main RCOP on 01.07.2014 the present set aside petition should have been filed within 3 years from the date of ex parte order. Present petition require with Section 5 of limitation Act, without condone the delay of calculation after three years the present petition to set aside the ex parte order is not maintainable. Admittedly there is a continuous default in payment of monthly rent from February 2005 onwards, therefore the petitioner/1st respondent may be directed to pay the total rent arrears directly to the 1<sup>st</sup> respondent/landlord or to deposit the entire accrued rent before this court to prove their bonafide to set aside the ex parte order. The allegations about the bank auction sale is not true the 1<sup>st</sup> respondent filed appeal challenging the alleged sale before the approve private forum just to prolong and prevent to pass the order in main RCOP the petitioner filed the vexatious petition and the same is liable to be dismissed. Hence to dismiss the petition with costs.

4. **Evidence :**

Neither the petitioner nor the respondent has placed any oral or documentary evidence before this court.

5. **Point for determination :** Whether this petition is to be allowed or not.

6. **Discussion and Findings :**

6.1. Heard the submissions of both sides. The records were carefully perused. The petitioner herein is the first respondent in the main petition. The present petition has been filed seeking to set aside the ex parte order dated 01.07.2014. The contention of the petitioner is that he is the Secretary of Sri Saraswathi Educational Trust and that the proceedings in the main petition were initiated against him, as well as against the Chairman and Treasurer of the said Trust. According to the petitioner, the Trust had earlier entered into a lease agreement in respect of the petition mentioned property with the erstwhile owner of the property and that the said lease period had already expired. It is therefore contended that, at present, there is no subsisting jural relationship of landlord and tenant between the respondent/petitioner in the main petition and the Trust or its office bearers. It is further contended that the other respondents in the main petition, namely the Chairman and Treasurer of the Trust, had filed their counter statements. However, due to the non-appearance of the petitioner herein, he was set ex parte on 01.07.2014. It is also stated that the main RCOP was subsequently dismissed for default on 27.07.2017 and thereafter restored on 15.07.2022. The petitioner further contends that the petitioner in the main RCOP is not the owner of the petition mentioned property, as the property had already been sold through a bank auction sale and that the auction purchasers are the proper and necessary parties to the proceedings. The explanation offered by the petitioner for his earlier non-appearance is that there was a miscommunication with the counsel who had previously represented him, and that only after applying for and obtaining certified copies did he come to know about the ex parte order dated 01.07.2014. On the said grounds, the present petition has been filed seeking to set aside the ex parte order.

6.2. Upon consideration of the rival submissions and on perusal of the records, it is seen that the petitioner herein is admittedly the Secretary of Sri Saraswati Educational Trust. The records further disclose that the second respondent in the main petition had filed a counter statement, which was adopted by the third respondent. However, the petitioner herein was set *ex parte* on 01.07.2014. Significantly, in the present petition seeking to set aside the said *ex parte* order, the petitioner has not furnished any satisfactory explanation for the extraordinary delay in approaching this Court. The order sought to be set aside was passed on 01.07.2014, whereas the present petition has been filed only after a prolonged lapse of nearly a decade. Except for a vague allegation of non-communication with the earlier counsel, no specific or convincing reason has been assigned to explain the inordinate delay. The petitioner has not placed any material to substantiate the alleged delay, nor has he explained the steps taken by him during the intervening period to follow up the proceedings. The explanation offered is therefore wholly insufficient to justify the enormous delay.

6.3. It is a settled principle of law that a party seeking to set aside an *ex parte* order must show sufficient cause for non-appearance on the date when the matter was called. The expression “sufficient cause” must receive a liberal construction so as to advance substantial justice; however, such liberality cannot be extended in cases where there is gross negligence, deliberate inaction, or lack of bona fides on the part of the litigant. In this regard, reference may be made to the decision of the Hon’ble Supreme Court in *Arjun Singh v. Mohindra Kumar (AIR 1964 SC 993)*, wherein it was held that the party seeking to set aside an *ex parte* order must satisfactorily explain the circumstances which prevented his appearance.

6.4. Further, under the scheme of procedural law, particularly the principles embodied under Order IX Rule 7 and Order IX Rule 13 of the Code of Civil Procedure, a party who has been set *ex parte* must establish sufficient cause for his absence on the relevant date. The petitioner must therefore show bona fide reasons for his non-appearance and the subsequent delay in approaching the Court. It is also relevant to note that the other respondents in the main petition, who are also representatives of

the same Trust, had already entered appearance and filed their counter. Thus, the Trust had adequate representation before the Court through its other office bearers. The mere fact that the petitioner herein did not participate in the proceedings does not, by itself, constitute sufficient cause to reopen the matter after such an inordinate lapse of time.

6.5. It is further seen from the records that the present application had already reached the stage of orders as early as the year 2024. At this advanced stage of the proceedings, permitting the petitioner to reopen the matter after an unexplained delay of nearly ten years would cause serious prejudice to the opposite party and defeat the very object of expeditious adjudication in rent control proceedings. In the absence of any satisfactory explanation for the extraordinary delay and in view of the fact that the Trust was already represented by other respondents in the proceedings, this Court finds no sufficient ground to exercise its discretionary jurisdiction in favour of the petitioner. The petitioner has failed to establish sufficient cause either for his non-appearance on 01.07.2014 or for the prolonged delay in filing the present petition. For the foregoing reasons, this Court is not inclined to allow the present petition. Accordingly, the petition stands dismissed.

7. **RESULT :**

In the result, this petition stands dismissed. No costs.

Dictated by me to the stenographer, directly typed by her in her desktop and corrected and pronounced by me in the open court, on this the 06<sup>th</sup> day of March 2026.

District Munsif,  
Ponneri.

Both side witnesses and documents:- NIL

District Munsif,  
Ponneri.

Fair/ Draft Order  
M.P.No.7/2024  
R.C.O.P.No.2/2014  
Date : 06.03.2026  
DMC,PNI