

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI

Present : Tmt. R.D. Gurulakshmi, M.A., M.L., P.G.D.I & C.L.,

District Munsif, Tiruttani.

Dated the Thursday of 30th Day of January 2025

I.A.No.3/2024 in OS.No.9/2024

(CNR.No.TNTR21-000009-2024)

J. Prema

...

... Petitioner / Defendant

/Versus/

G. Balaji

... Respondent/ Plaintiff

This petition came up before me for the final hearing on 23.01.2025 in the presence of M/s. A. Gopal, Advocate for Petitioner/Defendant, M/s. R. Srinivasan, R. Rajeshwara babu, P. Praveena, S. Thulasiyammal, S.V. Sandhaya, N. Poovarasam, Advocates for Respondent/ Plaintiff, upon hearing both sides, upon perusing the entire records and having stood over for consideration till this day, this court delivered the following:

ORDER

Petition is filed under order 9 Rule 7 of CPC to set-aside the exparte order dated 08.07.2024.

1. The averments of the petition in brief are as follows:-

The respondent/ plaintiff filed the above suit for permanent injunction against the petitioner. The same was posted on 08.07.2024 for filing written statement. Due to non-availability of the petitioner's parent documents, the petitioner could not be appeared this court on 08.07.2024. Hence the petitioner was called absent and set exparty on 08.07.2024. Now the petitioner is filing his written statement. The petitioner is having valid defense in the suit. Hence, this petition is filed.

2. Counter filed on behalf of the respondent in brief:-

This petition is not maintainable either in law or on facts. The allegation contained in affidavit filed in support of the Order 9 Rule 7 is ambiguous. The petition is only to dragging the proceedings. The defendants are making a false claim over the property of the plaintiff. The petition lacks bonafide merits. The set aside petition filed belatedly. The delay is not properly explained. Hence this petition has to be dismissed with costs.

3. Point for determination:

Whether the petitioner is entitled to the relief as sought for? or not?

4. Heard both sides. According to the petitioner, due to non-availability of the petitioner's parent documents, the petitioner unable to appear on 08.07.2024. Hence the petitioner was set exparty on 08.07.2024. The petitioner is having valid

defense in the suit. Hence the petitioner prays to allow this petition. Respondent resisted the petition by contending that the petition filed only to dragging the proceedings. The defendants are making a false claim over the property of the plaintiff. The petition lacks bonafide merits. The set aside petition filed belatedly. The delay is not properly explained. Hence, the respondent prays this petition to be dismissed with costs.

5. On perusal of records, this petitioner appeared on 22.03.2024 through his counsel and the case was posted for written statement on 22.04.2024. On 22.04.2024, 19.06.2024 and 08.07.2024 the petitioner not ready to file written statement. Hence defendant called absent and set exparty on 08.07.2024. In spite of sufficient opportunity given to petitioner/defendant, petitioner not ready to file written statement. No sufficient reason shown in the petition. Even though considering the fact and circumstances of this case, this court is of view that in the interest of justice to provide the petitioner an opportunity to prove his case, this petition has to be allowed on terms.

In the result, this petition is allowed on condition that the Petitioner has to pay a cost of Rs.500/- to the respondent/plaintiff on or before 06.02.2025 failing which this petition stands dismissed. Call on 06.02.2025.

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 30th day of January 2025.

Sd/-R.D. Gurulakshmi
30.01.2025
District Munsif,
Tiruttani.

Petitioners and Respondent side Exhibits and witness: NIL

Sd/-R.D. Gurulakshmi
30.01.2025
District Munsif,
Tiruttani.

30.01.2025

Order Pronounced in the Open Court

In the result, this petition is allowed on condition that the Petitioner has to pay a cost of Rs.500/- to the respondent/plaintiff on or before 06.02.2025 failing which this petition stands dismissed. Call on 06.02.2025.