

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 Monday of 5th Day of November 2024

I.A.No.4/2024 in IA.No.2 OF 2024 in OS.No.12/2024

(CNR.No.TNTR21-000012-2024)

...

1. M. Babu
2. M. Soundarajan
3. M. Annadurai
4. M. Gajendiran
5. M. Devendiran
6. M. Viswanathan
7. C. Ravichandran
8. C. Magendiran

... Petitioner /Petitioners /Defendants

/Versus/

1. D. Selvi
2. G. Usha
3. K. Sasikala

... Respondents/Respondents/Plaintiffs

This petition came up before me for the final hearing on 25.10.2024 in the presence of M/s. A.R. Poovannan, Advocate for Petitioners/Defendants and M/s. C.A. Natarajan, S. Gunasekeran, Advocates for Respondents. Upon hearing both sides and having stood over for consideration till this day, this court delivered the following:

ORDER

The petition is filed by the petitioner under order 9 Rule 7 of CPC to set aside the exparty order in IA.No.2/2024, dated 09.07.2024.

1. Petition averments in brief:-

The Respondents / plaintiffs had filed the suit for Injunction against the petitioners/ defendants. On receipt of the suit summon the petitioner entered appearance and the suit was posted for written statement on 09.07.2024, the petitioner was not well and he could not instruct his counsel to get further time for filling written statement and counter. Therefore the defendants called absent and set exparty. This petitioner absence is

not willful or wanton and was only due to his illness. The petitioner having good case on merits. Hence this petition.

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

This petition is not maintainable either in law or on facts. The respondents/ plaintiffs have filed the above suit for permanent injunction is true. The allegations in para of the affidavit are all false and figment of imagination. They know very well about the date of filing statement ends 3 months but wantonly they were absent. There is no bonafide merits in this petition. Hence the above petition has to be dismissed.

3. **Point for determination:-**

Whether the petitioners are entitled to set aside the exparty order in IA.No.2/2024, dated 09.07.2024? or not?

4. Heard both side. According to the petitioner, while the suit was posted for counter on 09.07.2024, the petitioner was not well and he could not instruct his counsel to get further time for filling counter. Therefore the defendants called absent and set exparty. The petitioner having good case on merits. Hence he prays to allow this petition. Respondent resisted the petition by contending that the petitioners know very well about the date of filing statement ends 3 months but wantonly they were absent. There is no bonafide merits in this petition. Hence the petition has to be dismissed.

5. On perusal of records R1 to R8 appeared on 12.03.2023 and posted for counter on 27.03.2023. On 27.03.2023, 25.04.2024. 24.06.2024, 09.07.2024 counter not filed on the side of Respondents. Hence Respondents called absent, set exparty on 09.07.2024 in IA.2/2024. Inspite of sufficient opportunity given to petitioners/Respondents, Petitioners not turned up for filing counter. 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 petitioners an opportunity to prove his case, to prevent multiplicity of proceedings and for proper adjudication of the case, this petition has to be allowed on terms.

In the result, this petition is allowed on condition that the petitioners have to pay a cost of Rs.500/- to the respondents on or before 12.11.2024 failing which this petition stands dismissed. Call on 12.11.2024.

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 5th day of November 2024.

Sd/- R.D. Gurulakshmi
05.11.2024
District Munsif,
Tiruttani.

Petitioners side Exhibits and Witnesses :- Nil

Respondents side Exhibits and Witnesses :- Nil

Sd/- R.D. Gurulakshmi
05.11.2024
District Munsif,
Tiruttani.