

**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 Friday of 10<sup>th</sup> Day of October 2025

I.A.No.4/2025 in OS.No.30/2023

(CNR.No.TNTR21-000032-2023)

Vasanthi

...

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

/Versus/

1. S. Hemanathan

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

2. M. Malarkodi

3. Murual

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

This petition came up before me for the final hearing on 22.09.2025 in the presence of M/s. V.Venkatesan, N. Balaji, P. Pichaimani, Advocates for Petitioner / 1<sup>st</sup> Defendant, M/s. V. S.Velayudham, Advocate for 1<sup>st</sup> Respondent/ Plaintiff, 2, 3 Respondents were exparty in suit. 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 09.08.2024.

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

(a) In the above suit the petitioner engaged counsel to appear on behalf of his side. In the above case the plaintiff filed the commissioner petition to inspect the suit property where the surveyor did not locate the suit petitioner. The Petitioner could not able to file his written statement in time without knowing the report of the commissioner. Meanwhile the petitioner was set exparty on 09.08.2024 where the commissioner petition is pending.

(b) On 06.12.2024 the commissioner inspected the suit property along with the surveyor where the petitioner produced his patta in respect of suit property. The surveyor did not verify the patta and inspected the suit property with the town patta which is issued without due enquiry. The petitioner could not able to file his objection in the report filed by the commissioner on 24.06.2025 where the petitioner was set

exparty on 09.08.2024 itself. At the time of filing the commissioner report the petitioner suffered the decease of Jaundice. Hence the petitioner could not able to contact his counsel to know about the case and to file his objection and written statement. The balance of inconvenience would be on his side if the order of exparty against the petitioner is not setaside. Hence, this petition is filed.

2. **Counter filed on behalf of the 1<sup>st</sup> respondent in brief:-**

(a) This petition is not maintainable either in law or on facts. The allegations contained in affidavit paras are all false and denied by these respondents. The petitioner/1st defendant willfully not filed written statement even after more than one year and finally this court set exparty due to non filing of written statement. The reasons stated in the affidavit are not believable. The Advocate commissioner along with Taluk Surveyor inspected the suit property and filed his report stating that the petitioner had encroached to an extent of 301 sq.feet in the suit property.

(b) So, after filing of written statement, the petitioner filed this petition to set up imaginary story and filed written statement. Hence this petition is not bonafide and belated one. The petitioner filed this vexatious petition to set aside exparty order passed in the suit. There is no bonafide reasons stated in this petition. There is no sufficient reasons stated in the affidavit to restore the suit. Hence this petition has to be dismissed in limini 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, without knowing the Advocate Commissioner report and plan and due to the decease of Jaundice the petitioner could not able to contact his counsel to know about the case and to file his objection in the report filed by the commissioner and written statement. The petitioner was set exparty on 09.08.2024. Hence the petitioner prays to allow this petition. The Respondents resisted the petition by contending that the petitioner/1st defendant willfully not filed written statement even after more than one year. There is no bonafide reasons stated in this petition. There is no sufficient reasons stated in the

affidavit to restore the suit. Hence, the respondents pray this petition is to be dismissed with costs.

5. On perusal of records, this petitioner appeared on 04.08.2023 through his counsel and the case was posted for written statement on 01.09.2023. From 01.09.2023 to 09.08.2024 the petitioner not ready to file written statement. Hence defendants were called absent and set exparty on 09.08.2024. In spite of sufficient opportunity given to petitioner/1st 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 Petitioners has to pay a sum of Rs.500/- to the 1<sup>st</sup> respondent/plaintiff on or before 17.10.2025 failing which this petition stands dismissed. Call on 17.10.2025.

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 10<sup>th</sup> day of October 2025.

District Munsif,  
Tiruttani.

Petitioners and Respondents side Exhibits and witness: NIL

District Munsif,  
Tiruttani.