

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 Tuesday of 3rd Day of September 2024

I.A.No.4/2024 in OS.No.35/2021

(CNR.No.TNTR21-000040-2021)

...

1. Ramammal (died)
2. Vasanthi
3. Jayanthi
4. Maikandan

... 1 to 4 Petitioners /
1 to 3, 5 Defendants

/Versus/

1. P. Ramamoorthi Naidu
2. Latha
3. The Tahsildar, Tiruttani
4. The Revenue Divisional Officer, Tiruttani
5. The District Collector, Tiruvallur

... 1st Respondent/ Plaintiff

... Respondents 2 to 5/
4,6 to 8 Defendants

This petition came up before me for the final hearing on 28.08.2024 in the presence of M/s. P. Kuppan, Advocate for 2 to 4 Petitioners/ 1 to 3, 5 Defendants, 1st petitioner was died, M/s. C.A. Natarajan, S. Gunasekeran, Advocates for 1st Respondent/Plaintiff, Respondent 2 to 5 were set exparte in suit. 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 petitioners under order 9 Rule 7 of CPC to set aside the exparty order dated 01.02.2023 against the petitioners.

1. **Petition averments in brief:-**

(a) The 4th petitioner was affected with Jaundice from the month of January 2023 and he was taken native treatment for a period of 6 months, the petitioner was advised to take bed rest for a period of 3 month. So the petitioner could not able to contact his counsel to know about the stage of the case. After recovery of petitioner's ailment, when he contacted his counsel, his counsel stated that due to

non-filing of written statement, the petitioners were called absent set exparty on 01.02.2023.

(b) The 1st defendant was died, so the petitioners were under impression that the steps have to be filed for the deceased 1st defendant and after the amendment only, the petitioner have to file written statement. The petitioners have good case on merits to defend the suit and filed along with written statement with this petition. Therefore the petitioner filed this petition.

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

This petition is not maintainable either in law or on facts. The reason mentioned in the affidavit is false and denied. Wantonly the petitioners were called absent and exparty. The 1st petitioner/ 1st defendant and her husband sold the property on 20.07.2015 to this respondent who were the owners. There is no bonafide merits in this petition. Hence, prays to dismiss the petition with costs.

3. **Point for determination:-**

Whether the petitioners are entitled to set aside the exparty order passed on 01.02.2023? or not?

4. Heard both side. According to the petitioners, due to illness, the 4th petitioner could not able to contact his counsel, so he didn't know about the stage of the case. After recovery when he contacted his counsel, his counsel stated that due to non-filing of written statement, the petitioners were called absent set exparty on 01.02.2023. The petitioner have got a good case on merits. Therefore petitioner prays to allow the petition.

5. Respondent resisted the petition by contending that wantonly the petitioners drag on the proceedings. The 1st petitioner/ 1st defendant and her husband sold the property on 20.07.2015 to this respondent who were the owners. There is no bonafide merits in this petition. Hence, prays to dismiss the petition with costs.

6. The written statement has also been filed. This court is of view that in the interest of justice to provide the petitioners an opportunity to prove their case, to prevent multiplicity of proceedings and for proper adjudication of the case, this

petition has to be allowed on costs.

In the result, this petition is allowed on condition that the 2 to 4 petitioners have to pay a cost of Rs.1,000/- to the 1st respondent on or before 09.09.2024 failing which this petition stands dismissed. Call on 09.09.2024.

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 3rd day of September 2024.

District Munsif,
Tiruttani.

Petitioners side Exhibits and Witnesses :- Nil

Respondents side Exhibits and Witnesses :- Nil

District Munsif,
Tiruttani.