

**IN THE COURT OF THE II ADDITIONAL DISTRICT JUDGE,
THOOTHUKUDI.**

Present: Tmt. M.Breetha, M.L.,
II Additional District Judge,
Thoothukudi.

Tuesday, this the 7th day of April 2026

I.A. No. 03/2026

in

O.S. No. 257/2024

- 1) Saraswathi
- 2) Guruvammal
- 3) Murugaveni
- 4.Mutharu
- 5) Pon Marichami
- 6) Murugalakshmi
- 7) Subbulakshmi
- 8) Mariammal

Petitioners /defendants 4,6,7,10,13 to 16

/Vs/

- 1.Muthulakshmi
- 2.Sankareswari
- 3.Vijayalakshmi
- 4.Ramamoorthy
- 5.Sankara Goundar

..Respondents/Plaintiffs

This petition came before me for final hearing on 02.04.2026, in the presence of Advocate Thiru.B.Raja Ratnakar, counsel for the Petitioners / 4,6,7,10,13 to 16 defendants and of Advocate Thiru.P.Mayilrajaperumal, counsel for the respondents and after hearing the arguments on both side and upon perusing the records, having stood over for consideration till this date, this court delivers the following:

ORDER

1) This petition has been filed by the petitioners under Order 9 Rule 7 of C.P.C. to set aside the exparte order passed against the petitioners in the main suit on 10.06.2025

2) **Brief averments of the petition and affidavit:**

The petitioner is the 13th defendant in the main suit and has filed this petition on behalf of other petitioners and has averred that the main suit was filed seeking relief of partition and mandatory injunction and that the suit was posted on 10.06.2025 for filing written statement and as they need to analyse certain documents, they were not able to file written statement on 10.06.2025 and therefore, they were called absent and set exparte on 10.06.2025 and that the non-filing of written statement is neither wilfull nor wanton and that unless this petition to set aside the exparte order is allowed, the petitioner would be put to irreparable loss and hardships and hence, constrained to file this petition and prays to allow the same.

3) **The contentions of the counter filed by the respondent:**

The respondent has denied all the averments made in the petition and has contended that petitioners herein were set exparte for filing written statement on 10.06.2025 and that the petitioners deliberately did not proceed with the case and this petition has been filed to protract the proceedings and prays for dismissal of the same with costs.

4) The point for consideration is whether this petition can be allowed or not?

5) Both sides are heard. Records have been perused. The petitioners are the defendants 4, 6, 7, 10, 13 to 16 and the respondents are the plaintiffs. The suit stood posted for filing written statement on various hearings and finally on 10.06.2025. Inspite of sufficient opportunities, the defendants 4, 6, 7, 10, 13 to 16 failed to file written statement. Therefore, the petitioners were called absent and have been set exparte. The reason stated by the petitioners for filing written statement has been objected by the respondents.

6) The petitioners are the defendants 4, 6, 7, 10, 13 to 16 in the main suit. Being the defendants 4, 6, 7, 10, 13 to 16 in the suit, this court is of the view that one more fair opportunity shall be given to them to defend their case. At the same time, while considering the repeated defaults and the hardships caused to the respondents, this court is of the view that the hardships caused may be compensated by terms of costs. Therefore, for the above said reasons and in the interest of justice, this petition stands allowed on condition of payment of costs.

In the result, this petition stands allowed on condition that the petitioners shall pay a cost of Rs.2,000/- (Rupees Two Thousand only) to the respondents on or before 21.04.2026; failing which, this petition stands automatically dismissed. Call on 21.04.2026.

Dictated to the Steno-typist, typed by her, corrected and pronounced by me in open Court, this the 7th day of April 2026.

II Additional District Judge,
Thoothukudi.

Witnesses and Exhibits on the side
of the Petitioners: Nil

Witnesses and Exhibits on the side
of the Respondents: Nil

II Additional District Judge,
Thoothukudi.

