

IN THE COURT OF DISTRICT MUNSIF, TIRUVARUR

Present: Thiru. S. Mohamed Basil M.Sc., B.L.,
District Munsif, Tiruvarur

Monday, 07th day of July 2025
23rd day of Tamil Month Aani, Visuvavasu year

I.A.No. 124/2025

in

O.S.No. 45/2024

CNR No. TNTV04-000071-2024

S. Manikandan ... Petitioner / Defendant

/Vs/

K.V. Anantharaj ... Respondent / Plaintiff

This petition is coming before this Court for final hearing on 01.07.2025 in presence of Advocates Mr. M. Senthilnathan, M.Com., B.L., for petitioner / defendant and Mr. M. Ganesan, B.A., L.L.B., for respondent/plaintiff. Having stood over for consideration till today, this court delivered the following:

ORDER

1. This petition has been filed by the petitioner/ defendant under Section 5 of Limitation Act to condone delay of 107 days in filing petition to set aside the dismissal order and to restore the suit on file.

2. Brief averments in the petition:

2.1. The brief facts of the petition is that suit for permanent injunction has been filed against the petitioner by the respondent which was decreed exparte on 19.10.2024. The petitioner was on abroad during the period of service of summons and had not been received by him which ended with exparte order on the first day of appearance itself.

Having come to know about the case through of his relative, third party copy application has been filed by his wife and received the copy of plaint and its documents on 20.08.2024. The petitioner returned from abroad, having taken leave from 10.01.2025 to 24.01.2025 and consulted his advocate to file this setaside petition. Further, it is pleaded that his absence was neither willful nor wanton as he was employed in abroad and prays to condone the above said delay.

3. Brief averments of Counter:

3.1. The respondent have denied all the averments made in the petition and have contended that the reasons stated in the petition are not correct and that the plaintiff had failed to substantiate his claims with proof as petitioner's passport had not been produced to prove his reasons. This petition is filed only to drag on the proceedings and have not approached this Court with clean hands.

4. Evidences:

No evidences adduced on both sides.

5. The point for consideration:

Whether the prayer to condone delay be granted?

6. Discussion:

6.1. Hear both sides. Records perused.

6.2. On perusal of records, it is observed that the suit summons were served on 09.05.2024 as affixed in the door of the petitioner's house as he has gone to Chennai. Petitioner had been setexparte on the day of first appearance as service deemed sufficient. Consequently, exparte evidence has been taken and exparte decree passed on 19.10.2024 with costs. The petitioner had stated the reason as employment in abroad for non appearance. Considering the circumstances of the case, reasons and number of days of

delay, this Court is of view that the reason stated by the petitioner cannot be totally neglected as false and the sufficient cause exists. Therefore, for the reasons stated above, this Court is of opinion that one more opportunity shall be given to the petitioner herein to conduct his case.

6.3. Considering the hardships caused to the respondent, this Court is of the view that the hardships caused to him may be compensated by way of imposing costs.

7. Decision :

In result, for the reasons stated above and in the interest of justice, the delay of 107 days in filing the petition to set aside the ex parte decree is condoned on condition that the petitioner shall pay a costs of Rs. 1,000/- (Rupees one thousand only) to the respondent on or before 10.07.2025 failing which the petition stands automatically dismissed. Call on 10.07.2025.

This order is dictated by me to the steno-typist and typed by her, corrected and pronounced by me in open Court, this 7th July of 2025.

District Munsif,
Tiruvarur

Witnesses examined by the petitioner : Nil

Witnesses examined by the respondent : Nil

Exhibits marked by the petitioner : Nil

Exhibits marked by the respondent : Nil

District Munsif,
Tiruvarur