

**BEFORE THE PRINCIPAL DISTRICT COURT  
VELLORE DISTRICT**

**Present:- Thiru.M.Elavarasan**  
Principal District Judge

Monday, the 16<sup>th</sup> day of March, 2026

**I.A.No.01 of 2025**  
**in**  
**A.S.No.40 of 2025**

K. Chockalingam ... Petitioner/Respondent

-vs-

1. Balraj  
2. G. Pushpavalli ... Respondents/Appellants

This petition was coming before me on 26.02.2026 for hearing in the presence of Thiru. M. Kulothungan, counsel for the petitioner and, of Thiru K.Loganathan, counsel for the respondents and, upon hearing the enquiry of the both sides and, upon perusing the relevant records, this court passes the following :-

**O R D E R**

Petition is filed under Order 9 Rule 7 and Section 151 of CPC to set aside the exparte order dated 25.10.2025 and for orders.

2. Brief facts from the affidavit of the petitioner is that the petitioner is the 1st respondent in the above appeal. The above appeal was posted for appearance on 25.10.2025. The petitioner, who is aged about 91 years, was unable to appear before this Court on the said date due to illness and old age. Hence, this Court set him ex parte on 25.10.2025 and the appeal was thereafter posted on 03.12.2025 for arguments. Subsequently, after engaging counsel, the petitioner came to know that he had been set ex parte for non-appearance on 25.10.2025. The non-appearance of the petitioner on the said date was neither willful nor wanton but occurred due to circumstances beyond his control. The petitioner has a valid defence in the appeal and good chances of success if he is permitted to contest the case on merits. If the ex parte order is not set aside, the petitioner will be put to great loss and hardship. Hence, this petition has been filed seeking to set aside the ex parte order dated 25.10.2025 and to permit the petitioner to contest the above appeal on merits in the interest of justice.

3. Brief facts from the counter of the respondents is that the petition filed in I.A. No.01 of 2025 by the petitioner/respondent is

unjust and not maintainable either in law or on facts and is liable to be dismissed. The respondents/appellants deny the averments made in paragraphs 1 and 2 of the affidavit and put the petitioner/respondent to strict proof of the same. The suit property belongs to the respondents/appellants and the petitioner/respondent has no valid claim over the same. The trial court failed to properly consider the documents produced by the respondents/appellants which prima facie establish their title over the suit property and that the matter was decided by the trial court only on the issue of res judicata without proper appreciation of the materials available on record. Therefore, the respondents/appellants have preferred the present appeal in order to establish their lawful rights and title over the suit property. The present petition is not maintainable at this stage and that arguments in the appeal have already been filed through e-filing. Hence, this petition is liable to be dismissed with cost

4. Heard both sides. Perused the material records. Considered the submissions of both sides.

5. The Point for consideration is as to whether the petition is to be allowed or not?

6. This petition has been filed by the petitioner/respondent seeking to set aside the ex parte order dated 25.10.2025 passed against him in the above appeal.

7. The case of the petitioner is that the appeal was posted on 25.10.2025 for his appearance and due to his old age and illness he was unable to appear before this Court on the said date. It is also mentioned that the petitioner is aged about 91 years and therefore he could not personally attend the Court on that day. Consequently, the petitioner was called absent and set ex parte on 25.10.2025 and the appeal was posted on 03.12.2025 for arguments. The petitioner's absence on the said date was neither wilful nor wanton but due to circumstances beyond his control. It is also claimed that he has valid grounds to contest the appeal on merits and if he is not permitted to participate in the proceedings he will suffer serious loss and hardship.

8. The respondents/appellants have filed a counter opposing the petition. According to the respondents/appellants, the petition is not maintainable either in law or on facts. It is contended that the appeal has been filed by the respondents/appellants to establish their title over

the suit property since the trial court had not properly considered the documents produced by them and decided the suit mainly on the ground of res judicata. It is also contended that the respondents/appellants have already filed their written arguments through e-filing and therefore the present petition has been filed only to delay the proceedings.

9. Heard the submissions made on either side and perused the records. It is seen that the petitioner was set ex parte on 25.10.2025 due to his non-appearance. The reason assigned for such non-appearance is that the petitioner is aged about 91 years and was suffering from illness on the said date. Considering the advanced age of the petitioner and the explanation offered for his absence, this Court is of the view that the petitioner may be given an opportunity to participate in the appeal proceedings. It is well settled that courts should normally provide an opportunity to parties to contest the matter on merits unless there are strong reasons to deny such opportunity. At the same time, the inconvenience caused to the respondents/appellants

due to the delay has to be compensated. Therefore, this Court finds it appropriate to allow the petition subject to payment of costs.

**10. In the result,**

(i) The petition is allowed on condition that the petitioner shall pay a cost of Rs.1,000/- (Rupees One Thousand only) to the respondents/appellants on or before 24.03.2026 failing which this petition shall stand automatically dismissed.

(ii) Call on 25.03.2026

Dictated to the Steno-typist, transcribed and computerized by him, corrected and pronounced by me in the Open Court, on this day the 16<sup>th</sup> day of March, 2026.

**Principal District Judge  
Vellore**

**Annexures :- NIL**

**P D J  
Vlr**