

IN THE COURT OF DISTRICT MUNSIF, GUDIYATTAM,
VELLORE DISTRICT.

Present: **Tr.K.Karthick Asath, B.A.,B.L.,(Hons).,LLM.,**
District Munsif,
Gudiyattam.

Friday, this the 24th day of October 2025

I.A.02/2025
in
O.S.No. 137/2020

1. Raghu
2. Gomathi

.... Petitioners/Defendants

// Versus //

1. P.S.Umapathy (Died)
2. Sagunthala
3. Minor. Kathir
4. Minor. Kamal

.... Respondents / Plaintiffs

This petition came up on 22.09.2025 before me for final hearing in the presence of Thiru.N.Kumar, Advocate for Petitioner and the respondents side counter not filed hence set exparte and upon perusing the case records and having stood over for consideration till this day this court delivered the following.

Order

The application filed Under Order 9, Rule 7 and Section 151 of the Code of Civil Procedure Code to set aside the exparty order passed against petitioner/defendant No.2 on 23.03.2023 and pass such other orders.

1. The averments of the petitioner in the applications:-

The petitioner is the 2nd defendant in the above suit. The petitioner state that the above suit was posted on 23.03.2023 for appearance and filing written statement and on that day his son namely M.R.Yuvaraj was not doing well and he was admitted in hospital and died on 19.08.2023 and the petitioner attend funeral and emaisadangu and also. The petitioner unable to move anywhere and he was also affected by viral fever and hence the petitioner was unable to move anywhere and he was not able to instruct his counsel to file written statement. The petitioner prayed that this Hon'ble court may be pleased to set aside the exparte order passed against him on 23.03.2023 for the non filing the written statement is not willful neither nor wanton and further state that he have good cited to win the case and an opportunity may be given to petitioner hence he prayed that this Hon'ble court may be pleased to condone the delay of 591 days in filing the petition under Order 9 Rule 7 of CPC, else the petitioner will be put to series loss and hardship. Hence the petitioner filed the application and prayed to allow the same.

2. The respondents side failed to file counter and set exparte.

3. Petitioner side enquiry heard.

4. Point for consideration:-

Whether this application is liable to be allowed ?

5. Evidence:-

Neither of the parties to this application have adduced any oral or documentary evidence.

6. Discussion:-

On considering the submissions made by the petitioners counsel and perusing the available records this court delineate and proceeds its findings based on the following discussion.

6.1. The main suit filed by the respondents against the petitioners for declaration of title, delivery of possession and mandatory injunction. while both the defendants failed to file written statement on 23.03.2023 this court passed exparte order against them. At present the 2nd defendant filed this petition alongwith written statement to set aside the exparte order.

6.2. On perusal of available records the 2nd defendant set exparte on 23.03.2023 but the present petition filed only on 21.01.2025. The reasons stated for the delay is that her son Yuvaraj not doing well on that day and subsequently died on 19.08.2023, due to that she was unable to move anywhere and she also affected by viral fever hence the delay is occurred. The respondents who are all the right person's to deny the petition are failed to file counter. Hence on considering the reason's this court satisfied and inclined to allow this petition.

7. Result:-

As a result this petition is allowed without cost. On that the exparte order passed against the 2nd defendant dated 23.03.2023 is set aside.

Dictated to Steno typist directly, typed by him corrected and pronounced by me in the open Court on this the 24th day of October 2025.

**District Munsif,
Gudiyattam.**

Petitioners side Witnesses and Exhibits :- Nil

Respondents side Witnesses and Exhibits :- Nil

**District Munsif,
Gudiyattam.**