

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

**Present : Thiru.M.N.Rajanandhivarmasiva, B.E., L.L.B.,
District Munsif, Gudiyattam.**

Tuesday, this the 31st day of January 2023

IA.2/2022 in OS.144/2018

CNR.No.TNVL10-000213 – 2018

Sujatha.

...Petitioner/ 3rd Defendant.

// Versus //

Kanthy

...Respondent/Plaintiff.

// Versus //

1. Lalitha.
2. Vivekanandan.
3. Narayanan.
4. Rajeswari (Died)
5. Village Administrative Officer, Sarangal Village.
6. Sub Registrar, Ambur.
7. Tahsildar, Pernambut.
8. The District Collector, Vellore.
9. Ravivannan.
10. Viswajith Dev.
11. Dev Anand.
12. Syam Sunder.

...Respondents/1st and 2, 4th Defendants.

This petition came up on 31.01.2023 before me for final hearing in the presence of **Thiru.B.S.Giri Prasad., B.A.,B.L.,** Advocate for Petitioner/ 3rd Defendant **Thiru.K.Sanjeevi., MA.,B.L.,** Advocate for the 9th to 12th Respondents/Defendants 1st to 8th Respondents were set exparte and the 4th respondent died upon hearing both sides and having stood over for consideration, this court delivered the following

ORDER

Petition filed in Order 9 Rule 7 and 151 of CPC to Set aside the exparte order passed against the Petitioner/ 3rd defendant on 05.12.2019 in the above case and restore the case for fresh disposal and pass necessary orders

in the circumstances of the case.

I. Brief Averments of the Petition :-

1.1. The above case was posted on 05.12.2019 for filing counter and statement. But the petitioner was suffering from severe fever on that day so petitioner could not able to appear before this Court and petitioner not able to file the Counter and statement on that day. Hence, this Court passed an exparte order.

1.2. Petitioner have good defences to defend the above case filed by respondent/plaintiff and petitioner have good points in the above case to defend the case. Hence, the exparte order passed against the petitioner on 05.12.2019. Petitioner under take to proceed with the case immediately and no prejudice will be caused to the respondent/plaintiff. If not petitioners will be put to great loss and hardship.

II. Brief Averments of the Counter :-

2.1. The suit was posted on 28.03.2022 for filing counter and written statement as last chance. But it is false to the 1st petitioner was suffering from Sever fever on that day and she could not able attend this Court and file her counter and written statemet and so this Court has passed exparte order.

2.2. The fact is that the petitioners deliberately did not apper before this Court and did not file their counter and written statement with a view to drag on the proceedings of this Court and to delay rendering of justice in collusion with the respondent/plaintiff and 1 to 3 respondents. The petitioner has not produced any piece of document to prove of the reason stated him. So, it obviously shows that the petitioners telling lies and thereby misleads this Court to set aside the exparte order

passed against them on 28.03.2022. Therefore, dismiss the petition with exemplary cost and thus render justice.

Heard both sides and records perused

III. Point for Considerations: -

Whether the petition is to be allowed or not?

3.1. Petitioner contended that the petitioner was suffering from severe fever cannot to file the written statement on that day. Hence, this Court passed an ex parte order. petitioner have good points in the above case to defend the case take to proceed with the case immediately. Respondent contended that the petitioner has not produced any piece of document to prove of the reason stated her. The Respondent further contended that the petitioners telling lies and thereby misleads this Court to set aside the ex parte order passed against them on 28.03.2022. Therefore, dismiss the petition with exemplary cost and thus render justice.

Heard both sides and on perusal of available material.

Heard both sides and on perusal of available material.

3.2. The petitioner has filed this petition to set aside a ex parte order passed on 05.12.2019. The petitioner has stated that if the petitioner he suffered by chicken guinae, he could not file the written statement. The petitioner herein has filed his written statement along with this petition. This court forms opinion as such no evidence was commenced by the respondent, if the matter would be decided on merits on considering the both side oral and documentary evidence, then it would advance the interest of justice to both parties. Therefore, at this juncture, this court is inclined to allow this petition. However the delay caused to the respondent has to be

certainly substituted by the manner known to law.

In the result, this petition is allowed on payment of cost of Rs. 500/- to the respondents.

Directly Dictated to Steno typist, typed by her corrected and pronounced by me in the open Court on this the 31st day of January 2023.

**District Munsif,
Gudiyattam.**

Petitioners side Witnesses and Exhibits :- Nil

Respondents side Exhibits and Exhibits :- Nil

**District Munsif,
Gudiyattam.**