

**IN THE COURT OF DISTRICT MUNSIF, KATPADI, VELLORE DISTRICT  
PRESENT: THIRU. K.VENKATESAN, B.A., B.L.,  
DISTRICT MUNSIF, KATPADI.**

Monday, this the 8<sup>th</sup> Day of July – 2024

**I.A.No. 562 of 2019  
In  
O.S.No. 22 of 2015  
(CNR.No.TNVL23-000192-2015)**

1. Ravi
2. Indrani

.....Petitioners/Defendants 1 & 2

**-Vs-**

1. Gowri (died)
  2. Dayalan
  3. Jothi
  4. Rajitha
- (Amended as per Order in I.A.No.4/2022, 21.09.2022)

...Respondents/Plaintiffs

5. The Tahsildhar, Katpadi
6. The Collector, Vellore

...Respondents/Defendants 4 & 5

This petition is coming before me for final hearing today, in the presence of Thiru.G.Balamurugan, the Counsel for the Petitioners and Respondents have failed to file their counter and they were set exparte on 09.06.2023. Upon perusing the entire case records and having stood before this court for consideration till this date, this court delivers the following:

**ORDER**

This petition has been filed by the petitioners/Defendants- 1 & 2 under Order 9 Rule 13 and Section 151 of Civil Procedure Code, to set aside the exparte decree passed in the above suit on 26.11.2015.

Records perused. This petition has been filed by the petitioners who are the defendants 1 & 2 in the main suit, to set aside the exparte decree passed in the above suit on 26.11.2015. Notice given to other side but even after granting sufficient opportunities, they failed to file their counter and they were set exparte. In petition affidavit, the petitioners state that the respondents/plaintiffs were regularly informing the petitioners/defendants 1 & 2 that the suit can be settled outside of the court and they can measure the suit property by themselves by paying necessary charges to the surveyor, and apologized for their act, and thus, the petitioners have informed their advocate about the incidents & said suit will be not pressed and believing the words, the petitioners advocate the words, the petitioners advocate left the matter, but in the behind back the respondents have clearly cheated the petitioners without withdrawing the suit and proceeded by getting an exparte decree on 26.11.2015, and the above factors are came to the petitioners only after receiving the summons from this Court in execution petition i.e 22.01.2019, and then only, the petitioners have filed this petition and prays an opportunity to contest the suit on merits.

On bare reading of the above averments, it is clear that the petitioners were believed and depended the words of the respondents. At this point, the counter of the respondents is very essential but, in this case, the respondents have not filed their counter and remained exparte and they were set exparte. In such scenario, this Court has no other option except to draw adverse inference on the conduct of the respondents. On perusal of records, the suit was exparte decreed on 26.11.2015. Already, petition U/S 5 of Limitation was allowed. Considering the above facts, and the relief sought in the main suit and to dispose of the same on merits by giving opportunity to both the parties and in the interest of justice, this court is inclined to grant one opportunity to the petitioners/defendants 1 & 2 to contest the suit by way of setting aside the exparte decree passed in the above suit on 26.11.2015. In the result, this petition is allowed. No costs.

Pronounced by me in the open court, this the 8<sup>th</sup> day of July 2024.

(Sd/-).. K.Venkatesan  
DISTRICT MUNSIF  
KATPADI