

In the Court of the Principal District and Sessions Judge,
Virudhunagar District at Srivilliputtur

Present: Thiru.M.Christopher, B.A., B.L.,
Principal District and Sessions Judge

Thursday, this the 2nd day of March 2023

I.A.No.6/2022

in

OS.No.69/2018

- 1) A. Dhanasekaran
- 2) Srimathi. Pabitha
- 3) D. Ajaychakravarthy
- 4) D. Absara

.. Petitioners/5 to 8 Defendants

/Vs./

- 1) A. Vijayasekaran
- 2) Srimathi V. Rajam
- 3) V. Sivasankar
- 4) Minor S. Eesha
- 5) Minor S. Juno
- (Minor 4,5 respondents through 3rd plaintiff who
is their natural guardian and father)
- 6) V. Brindha
- 7) V. Deepika
- 8) A. Gnanasekaran
- 9) G. Azhageshwari
- 10) Y. Janani
- 11) V. Sivasankari

..Respondents/Plaintiffs

..Respondents/1 to 4 proposed
defendants

This petition coming before me for final hearing on 17.02.2023 in the presence of Thiru. S.Venkatesh, Advocate for the Petitioners, Thiru. A.Swatheeswaran, Advocate for the Respondents and upon hearing the arguments of both side and perusing the records, this Court delivered the following,

ORDER

This petition have been filed by the petitioners seeking to set-aside the exparte order dated 13.02.2019.

2) Petition averments in brief:-

The defendants 5 to 8 in the above suit has filed this petition to set-aside the exparte order passed against them on 13.02.2019. The petitions have stated that the respondents 1 to 5 have filed the suit for Declaration to declare the family arrangement dated 26.04.2018 to bind upon the parties to the suit. The defendants have appeared through their counsel and contested the suit. The case is posted for filing of written statement on 13.02.2019. But they could not file written statement for want of certain documents. Hence they were set exparte on 13.02.2019. The non filing of written statement is neither willful nor wanton. Only due to the reason that they could not obtained certain document within the said date. Hence prayed to set-aside the exparte order.

3) Counter Averments in brief:

The respondents/plaintiffs have filed Counter Affidavit denied all the allegations and averments. They have stated that only to drag on the matter the petitioners have remained exparte and filed the present petition. Hence prayed to dismiss the petition.

4) This Court has considered the rival submissions on both sides. The suit is pending at the stage of trial and now the defendants 5 to 8 have filed this petition to set-aside the exparte order. In-order to give fair opportunity to the petitioners to contest the matter on merits, this Court of the opinion that the petition has to be allowed. But however considering the time taken to file this petition, this Court of the opinion that the petition has to be allowed on costs.

5) RESULT

In the result, the petition is allowed on cost of Rs.2,000/- to be paid by the petitioners to the respondents/plaintiffs on or before 09.03.2023 failing which the petition shall stand dismissed.

Call on 10.03.2023.

Dictated to the Steno-Typist, transcribed and typed by her in computer, then corrected and pronounced by me in open Court on this the 2nd day of March 2023.

Principal District and Sessions Judge,
Virudhunagar District at Srivilliputtur.

List of witnesses and documents
on both side:- NIL.

Principal District and Sessions Judge,
Virudhunagar District at Srivilliputtur.

Principal District and Sessions Court,
Virudhunagar District at Srivilliputtur.
I.A.No.6/2022 in OS.No.69/2018
Draft/Fair Order,
Dated 02.03.2023