

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
ARUPPUKOTTAI**

Present : **Thiru. M. VASANTHA KUMAR, M.L.,**
Additional District Judge, Aruppukottai.

Monday, the 8th day of June, 2026

I.A. No. 08/2026 in
O.S. No. 05/2023

M. Abirami.

2. M. Anandaselvi.

3. M. Murugeswari ... Petitioners/Defendants 13 to 15.

//Vs//

1. A. Chidambaram.

2. P. Annamalai.

3. K. Mekkathai. ... Respondents/plaintiffs.

This petition came up before me on 01.06.2026 for final hearing in the presence of Thiru. M. Govindan, Learned counsel for the Petitioners and Thiru. A. Anandhan, Learned counsel for the respondents and upon considering all material records in this case and hearing the arguments of both sides and having stood over till this day for consideration and this court delivered the following

ORDER

This is an application filed by the petitioners/defendants 13 to 15 under Order 9 Rule 7 and Section 151 of C.P.C. seeking to set aside the exparte order passed against them on 06.11.2025 in the main suit.

2. **The Brief averments of the petition and affidavit is as follows**

The 1st petitioner was added as 13th defendant in the suit. The 14th and 15th defendants are her children. In the main suit, the 13th defendant appeared before the court through her counsel. The plaintiffs had filed this suit to grab the common properties. They broke the 12th defendant's leg and making him as disabled person,

for which a case in C.C. No. 352/2025 has been filed against the 1st plaintiff's family, which is pending before the Judicial Magistrate Court, Aruppukottai. Further with regard to the suit property, the plaintiffs have filed O.S. No. 127/2024 before District Munsif Court Aruppukottai, which is still remains pending. In this situation, the plaintiffs suppressed the fact that the 13th to 15th defendants appeared through a lawyer on 13.11.2024, an Exparte order was passed against respondents 12 to 15. Thereafter, said Exparte order was recalled on 26.08.2025 by saying that they were permitted to contest. But on 06.11.2025 again exparte order passed against defendants 13 to 15 in the main suit, when they were present through their lawyer, because the plaintiff wrongly paid batta for defendants 13 to 15 to appear before the court. Regarding the same he has tried to file Memo. On 06.11.2025, defendants 13 to 15 were suffering from Viral fever and hence they could not appear before the court. Non appearance of the petitioners is neither wilful nor wanton. The petitioners are willing to conduct the case. Hence this petition.

3. The Brief averments of the counter filed by the respondent is as follows :

There is no truth in the averments in the petition. It is not possible to say anything about the criminal case in this case. There is no averments about the fact that why defendants 13 to 15 were set Exparte on 06.11.2025 and what is the reason for that. Since the petitioners were not making any representation for the amendment petition and petitioners were not made any representation in every hearing date, the exparte order was passed against the petitioners on that date. The averments that defendants 13 to 15 were suffering from severe viral fever on 06.11.2025 and were unable to appear before court are all denied as false. There is no mentioning about the fact that from which date the petitioner suffered from fever and on which date they were discharged, and in which hospital they were treated. The 13th to 15th defendants are not cooperating to this case. In this case

Exparte orders have been issued two times and they are filing like this false petition again and again. Hence prays to dismiss the petition.

4. Point for Determination :

Whether this petition deserves to be allowed or not.

Heard the Counsels for both sides. Records perused. No Oral and Documentary evidence adduced by both sides.

5. This petition has been filed by the petitioners/defendants 13 to 15 seeking to set aside the exparte order passed against them on 06.11.2025 in the main suit. On the side of the petitioner, it is contended that the 13th to 15th defendants appeared in this case through a lawyer, but on 13.11.2024, an Exparte order was passed against respondents 12 to 15 and hence said Exparte order was recalled on 26.08.2025. But on 06.11.2025 again exparte order passed against the petitioner/defendants 13 to 15 in the main suit, when they were present through their lawyer, because the plaintiff wrongly paid batta for defendants 13 to 15 to appear before the court. Further it is contended that on 06.11.2025, since defendants 13 to 15 were suffering from Viral fever, they could not appear before the court and prays to allow this petition. On the other hand the respondents contended that since the petitioners did not making any representation for the amendment petition and did not made any representation in every hearing date, ab exparte order was passed against the petitioners. Further it is contended that the petitioners were not suffered by viral fever and hence it is not mentioned that from which date the petitioners suffered from fever and on which date they were discharged, and in which hospital they were treated and the 13th to 15th defendants are not cooperating to this case and prays to dismiss the petition.

6. By considering the rival submissions and by perusing the materials available on record, this court finds that even though summon served to the petitioners, the petitioner did not appear before the court on 06.11.2025 and hence exparte order was passed against the petitioners/defendants 13 to 15. Admittedly

in this case, an ex parte order was passed against the petitioners in the suit on 06.11.2025 and the present petition has been filed on 26.11.2025. There is no delay in filing the present petition. The suit is filed by the respondents/plaintiffs for partition. Admittedly in this case issues were not framed and trial has not yet commenced. Since, the suit is filed for the relief of partition, all the parties are to be heard, before adjudicating the dispute between the parties. Now the suit is in initial stage. Moreover, the present petitioners/defendants 13 to 15 filed a memo on 18.04.2026 stating that they have adopted the written statement of the 12th defendant, which was already filed on 26.22.2025. Hence this court is inclined to give an opportunity to the petitioners to defend their case. In order to effectively adjudicate the dispute among the parties and in the interest of justice and in order to give opportunity to the petitioners to conduct the suit on merits, this court is inclined to allow this application and the delay caused to the respondents has to be compensated by way of costs.

7. In the result, this petition is allowed on condition that the petitioners has to pay a sum of Rs. 1000/- (Rupees one Thousand only) as cost to the respondents on or before 15.06.2026. For reporting compliance call on 16.06.2026.

Dictated by me to the steno-typist, directly typed by her, corrected and pronounced by me in open court, on this the 08th day of June, 2026.

Additional District Judge
Aruppukottai.

List of Witness and Exhibits on the side of the Petitioners: Nil.

List of Witness and Exhibits on the side of the Respondents: Nil.

Additional District Judge
Aruppukottai.