

**In the Court of Subordinate Judge, Aruppukottai**

**Present : Thiru. V. Ramalingam, B.Sc., B.L.,  
Subordinate Judge, Aruppukottai.**

**I.A.No.9/2024 in O.S.No.124/2016**

**Tuesday, the 30<sup>th</sup> Day of April 2024**

U. Maruthaveeran

... Petitioner/11<sup>th</sup> Defendant

/Vs/

1. Maruthayee(Died)

2. Kannan

3. Ramanathan

4. Boominathan

5. Balamurugan

... Respondents/Plaintiffs

This Application came up for final hearing before me on 15.04.2024 in the presence of Thiru. K. Sridhar, Advocate for the Petitioner and Thiru.P.Therirajan, Advocate for the Respondents/Plaintiffs and upon hearing the arguments on both side and upon perusing the records, having stood over till this date for my consideration, this Court passed the following

**ORDER**

1. This Application has been filed by the Petitioners Under Order 9 Rule 7 CPC to set aside the exparte order passed against the Petitioners 28.02.2024.

**2. Brief averments of Petition : -**

In main suit, the case was posted for filing of written statement by the Petitioner. On 28.02.2024 exparte order was passed against the Petitioner for non-filing of written statement by the Petitioner. On 28.02.2024, the Petitioner was suffering from illness and hence, he was unable to contact his counsel and hence, written statement was not filed at time. The non-filing of written statement by the Petitioner is neither willfully nor wantonly. Hence, this application is to be allowed.

**3. Brief averments of Counter of Respondents:-**

The Petitioner is not a bonafide purchaser. Eventhough the Petitioner had known very well about the case details, the Petitioner has purchased the suit property after filing of suit. The Petitioner has filed this application with an intention to wave the Respondents. Hence, this

application is to be dismissed.

4. Point for consideration in this Application is whether this Petition is to be allowed or not?

5. **Point:-**

Heard both sides. Perused available records.

6. The Petitioner/11<sup>th</sup> Defendant has filed this Application to set aside the exparte order passed against him on 28.02.2024. Eventhough, the Respondents have vehemently opposed the Petitioner's case, the Respondents have not stated in his counter as what kind of prejudice would cause if at all this application is allowed. Hence, this court feels that a fair opportunity will be given to the Petitioner, since this is court of first instance and the reasons stated in the application is acceptable. Hence to putforth both side case before this court to decide the suit on merit, this court grants opportunity to the Petitioner.

7. In the result, this application is allowed. No cost.

Dictated to the Stenographer and transcribed and typed by her in the computer and after correction, this Order is pronounced by me in the Open Court this the 30<sup>th</sup> day of April 2024.

Subordinate Judge,  
Aruppukottai.

**Witnesses examined on the side of the Petitioners, Respondents:-**  
**Documents marked on the side of the Petitioners, Respondents:-**

**Nil**  
**Nil**

Subordinate Judge,  
Aruppukottai.

Sub Court, Aruppukottai  
I.A.No.9/2024 in O.S.No.124/2016  
Order dated: 30.04.2024