

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

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

Monday, the 04th day of August, 2025

I.A. No. 03/2025 in O.S. No. 106/2024

Kaleeswari. ... Petitioner/Defendant.

//Vs//

Ranjith Doss ... Respondent/Plaintiff.

This petition came up before me on 31.07.2025 for final hearing in the presence of Thiru. A. Baskaran, Learned counsel for the Petitioner and Thiru. D. Mohan, Learned counsel for the respondent 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 petitioner/defendant under Order 9 Rule 7 and Section 151 of C.P.C. seeking to set aside the exparte order passed against him on 21.06.2024 in the main suit.

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

The petitioner is the defendant in the suit. The suit was posted for appearance of the petitioner on 21.06.2024. But on that day, he went to the hospital, as he was not well. So, he could not appear before this court. After that, he had to go to the hospital continuously due to his ill health. Due to his non appearance on 21.06.2024, he was set exparte. The non appearance of the petitioner is neither willful nor wanton. If this petition is not allowed, the

petitioner will be put to heavy and irreparable loss. Hence prays to allow this petition.

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

The petitioner has not stated in his petition that when he received the summons. He could have appeared in the court before the hearing as soon as the summons was received. The petitioner has also stated that he did not appear before the court on the hearing date due to his illness. But he did not state what illness he was suffering from, in which hospital he was treated and how many days he was treated. The petitioner has not stated how the petitioner came to know the exparte order passed against the petitioner on 21.6.2025. Before filing the suit, the respondent had sent a notice to the petitioner on 17.10.2023. The petitioner did not receive it wantonly. Later, known the fact that the respondent will take action against the petitioner's property, the petitioner sold her property to her son Kannan without getting any consideration. With an intention to defraud the respondent and to drag on the proceedings the petitioner has filed this petition. 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. By considering the rival submissions and by perusing the materials available on record, it is found that on 21.06.2024 the petitioner has not appear before this court and so, he has been set exparte. The present petition was filed on 02.07.2025. On the side of the petitioner, it is contended that due to his illness, he has not appeared before this court. On the side of the respondent, it is contended that the petitioner has not stated about the fact that what illness he was suffering from, in which hospital he was treated and how many days he was treated.

Admittedly, as contended by the counsel for the respondent, the petitioner has not filed any document to prove his illness. But on perusal of records it is seen that the suit is filed for the relief of recovery of money. The written statement also filed by the petitioner along with this petition.. Hence this court is inclined to give an opportunity to the petitioner to defend his case. Hence to effectively adjudicate the dispute among the parties and in the interest of justice and in order to give opportunity to the petitioner to conduct the suit on merits, this court is inclined to allow this application on condition by imposing costs.

6. In the result, this petition is allowed on condition that the petitioner has to pay a sum of Rs.1500/- (Rupees One Thousand Five Hundred) only as cost to the respondent on or before 11.08.2025. For reporting compliance call on 12.08.2025.

Dictated to the steno-typist, directly typed by her in computer, corrected and pronounced by me in open court, on this the 04th day of August, 2025.

Additional District Judge
Aruppukottai.

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

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

Additional District Judge
Aruppukottai.