

IN THE COURT OF THE MUNSIFF, TIRUR
PRESENT: Sri.SANU.C, MUNSIFF
Friday, the 23rd day of August, 2024
the 1st day of Bhadra, 1946
INTERLOCUTORY APPLICATION No. 1 OF 2024
IN ORIGINAL SUIT NO. 317 OF 2022

Between:

- | | | |
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| 1. Vishnuprasad, S/o. Unnikrishnan,
2. Unnikrishnan, S/o. Aramughan,
(Petitioners are residing at Kandamparambil House,
Maniyamkad, P.O. Naduvattom, Kuttippuram) | } | Petitioners/Defendants |
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And:

- | | | |
|---|---|----------------------|
| Kerala Gramin Bank, Kuttippuram Branch,
Malappuram District. | } | Respondent/Plaintiff |
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This petition coming on this day for hearing before me in the presence of Sri.M.Vijayakumar., Advocate for petitioners and of Sri.C.M.Venugopalan, and of Smt.Sreekala.K and of Smt. Femya.T.P. Advocates for respondent and the court passed the following;

ORDER

This petition is filed under Order 9 Rule 7 of Civil Procedure Code to set aside the ex parte order, dated 19.01.2024.

2. **Petition averments in brief are as follows:-** The petitioner is the 2nd defendant in the above suit and he filed this petition for and on behalf of the 1st defendant. The suit was posted for filing of written statement. It is contended that petitioners were not able to appear and file a written statement before the court on that day, since petitioner was bedridden with fever and the first defendant, was not there. Subsequently, it was recorded that 'no written statement was filed' and the case was posted for evidence of the plaintiff. There was no willful laches on their part. So, petitioner requested to set aside the ex parte order. Hence the application.

3. Respondent entered appearance. No counter has been filed.
4. Heard. Perused the records and affidavit.
5. The point arise for determination:-

I. Whether the petitioner is entitled to get a relief, as prayed for?

6. **Point No.1:-** On going through the petition, it is contended that petitioners were not able to appear before the court on that day, since petitioner was bedridden with fever and the first defendant, was not there. It was neither intentional nor deliberate and there was no willful laches on his part. It can be seen that the petitioner has also filed written statement on the same day of filing this petition. Hence explanation given by the petitioner is proper and satisfied thereby. So I am inclined to allow the application on terms.

In the result,

The petition is allowed and the exparte order passed against the petitioners/defendants dated 19.01.2024 is set aside on payment of cost of ₹ 1,000/- (Rupees One Thousand only) before District Legal Service Authority, Manjeri on or before 05.09.2024.

(Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in open court, this the 23rd day of August, 2024).

MUNSIF.

Typed by : Girija.V.
Compared by :1. 2.

Fair Order in IA.2/2024
in OS.317/2022 Dated. 23-08-2024.
