



WEB COPY



A.No.4773 of 2025
in
E.P No.26 of 2023

MASTER
11.02.2026

ORDER

1. This application is filed by the applicant/respondent to set aside the exparte order dated 03.09.2025.

2. The case of the respondent is that she received a notice in the execution petition privately on 08.01.2025, wherein the hearing date was mentioned as 24.01.2025. But she was not able to appear before this court as she was suffering from various health ailments, subsequent to which her sister's husband died which left their entire family shattered and so for all these reasons she could not able to approach an advocate and instruct him to appear and defend on her behalf. The applicant further stated that she has been in possession and management of the affairs of the suit property for more than 35 years and hence she cannot be termed as an obstructor nor a third party and is very much related to the parties to the suit. Only if she is given an opportunity she can establish her interest in the property. Hence this petition.

3. The respondents filed their counter stating that originally the applicant was set exparte on 12.01.2024 and delivery was ordered on 21.02.2024 subsequent to which when the Court Amin went to the property for executing the warrant, the applicant obstructed the execution of warrant by stating that her name is Sulochana @ Malar. Based on the report of the Amin these respondents filed amendment application which



was allowed by this court and once again the respondent was served with a notice and the same was received by her on 08.01.2025. Having received the notice the applicant failed to appear before this court and was set exparte and now has come up with this application only to drag on the proceedings, that too without any sufficient cause to set aside the exparte order. The applicant was having sufficient knowledge about the pendency of proceedings before this court.

4. Heard both side counsels and perused the materials on record. It is seen that the above execution petition is filed to evict the applicant/3rd party obstructor and deliver the vacant possession of the property morefully described in the schedule. It is seen that initially service was effected upon the applicant/respondent by way of paper publication and an exparte order of delivery was passed on 12.01.2024. Thereafter, when the Bailiff visited the premises on 13.05.2024 for execution of warrant, the applicant has raised an objection that her name is Sulochana @ Malar. Thereafter, the E.P was amended by an Order dated 23.10.2024 in A.No.5453 of 2024. Subsequently, fresh notice to the applicant/respondent was ordered and served upon her on 08.01.2025 which is not disputed by the applicant/respondent.

5. From the above, it is seen that the applicant is aware of the proceedings. Further, the applicant herself admitted the receipt of summons and her failure to appear on the date of hearing. The reasons assigned for her non-appearance, namely illness and death of a relative are not supported by any acceptable material. It is settled law that the party must show absence of negligence on their part and prove that there is sufficient cause for non-appearance. The litigant cannot avoid consequences of his own inaction or negligence. Mere assertions without proof cannot be construed as "sufficient cause". In the present case also the applicant has not made out any sufficient cause except merely stating that she was not well and her brother-in-law died no other satisfactory



reason was mentioned in the affidavit. Moreover, it is not the case of the applicant that she is not aware of the proceedings. In such circumstances, this court is of the opinion that the petition lacks merits and is liable to be dismissed.

In the result, this petition is dismissed.

MASTER