

IN THE COURT OF DISTRICT MUNSIF, KATPADI, VELLORE DISTRICT
PRESENT: TMT. K.INBARANI, B.A.,B.L.,
(J.O.Code - TN2350)
DISTRICT MUNSIF, KATPADI

Wednesday, this the 18th Day of June – 2025

I.A.No. 112 of 2021
In
I.A.No. 277 of 2017
In
O.S.No. 1024 of 2009
(CNR.No.TNVL23-000087-2009)

1. Santhappa (Died)
2. Fathima
3. Thomas Edward
4. Pushparaj
5. Francis Xavier
6. Merry Berna
7. Leema
8. Merry Maaralla
9. Lurdh Metilda

.....Petitioners/Plaintiffs

-Vs-

1. Lilly Ballappa
2. D. Duraimurugan Educational Trust,
Rep. by D. Kathir Anand

.....Respondents/Defendants

This petition has come up today before this Court for orders, in the presence of Thiru.M.Chandramouli, the Counsel for the Petitioner and Respondents were called absent and set exparte. Upon perusing the entire case records, this court delivers the following:

ORDER

This petition has been filed by the Petitioners/Plaintiffs under Order 9 Rule 9 of Code of Civil Procedure to restore the order passed in IA.277/2017 on 28.02.2019 in the above suit.

1. **Brief averments of the Affidavit filed by the Petitioners is as follows:-**

The Petitioners states that he is the 6th petitioner herein and 6th plaintiff in the above suit. His father Santhappa filed above the suit for declaration of title and for injunction. While the above suit was dismissed for default on 01.07.2014. He filed set aside petition along with Sec.5 application. The said petition was allowed on condition that, the petitioner shall pay Rs.500/- to the respondent on or before 27.02.2019, call on 28.02.2019. when not complying the conditional order the petition will be stands dismissed on 28.02.2019. The 3rd respondent family met with an accident. In the said accident his brother wife died and his brother sustained multiple grievous injuries. Hence they were under depression and taking care of him.

Hence, he unable to contact his Junior counsels who following the case also suffering from severe throat Infection and cough and taking medicinal treatment in

Hospital from 15.02.2019 till 05.03.2019. Hence, this court dismissed the above IA.No.277/2017 for payment of conditional order of Rs.500/-. Since they are not complied the said Court order. The petition was dismissed. Non paying the conditional order costs Rs.500/- is not willful or wanted but due to above bonafide reason. Unless the above IA.No.277/2017 is restored he will be put to serious loss and hardship.

2. **Point for Consideration:-**

- a) Whether this petition is entitled to be allowed or not?

3. **Answering to the Point:-**

3.1 The Petitioner states that he is the 6th petitioner herein and 6th plaintiff in the above suit. His father Santhappa filed above the suit for declaration of title and for injunction. While the above suit was dismissed for default on 01.07.2014. He filed set aside petition along with Sec.5 application. The said petition was allowed on condition that, the petitioner shall pay Rs.500/- to the respondent on or before 27.02.2019, call on 28.02.2019. when not complying the conditional order the petition will be stands dismissed on 28.02.2019. The 3rd respondent family met with an accident. In the said accident his brother wife died and his brother sustained multiple grievous injuries. Hence they were under depression and taking care of him. Since they are not complied the said Court order. The petition was dismissed. Non paying the conditional order costs Rs.500/- is not willful or wanted but due to above bonafide reason.

3.2 On careful, considering the said facts, the petitioners states that due to met an accident, they could not come to the court. Hence they have filed this petition to condone delay for 394 days. It is seen that there are 394 days delay to file this petition. However, considering the reason stated in the petition and circumstances of the case, this petition is allowed with costs Rs.2,000/- to restore the petition.

The Petitioners are directed to pay the cost to Legal Aid on or before 27.6.2025 failing which the petition is stands dismissed. Compliance on 30.6.2025.

-//Dictated by me to the Steno-typist, and directly typed by him in Computer, and after rectification taken print out and pronounced by me in the Open Court, on this the 18th Day of June 2025.//-

(Sd/-)..K.Inbarani
DISTRICT MUNSIF
KATPADI

Both sides documents and witnesses: **NIL**

(Sd/-)..K.Inbarani
DISTRICT MUNSIF
KATPADI