

Ex.280/22

Matter advanced and taken on board.

Learned counsel for Dhr is present.

Learned counsel for Dhr files application U/s 151 of CPC for restoration of the petition, taken on record as IA I.

Learned counsel for the Dhr submits that copy of the IA-I is served on the Jdr.

No representation for Jdr.

Heard learned counsel for Dhr on IA I.

For orders on IA-I

Kept by

Prl. Judge,  
Court of SC., & MACT., Mysuru.

**ORDER ON IA-I**

1. The application under consideration is filed under section 151 of C.P.C by the Dhr seeking that the order of dismissal of the petition be set aside and the petition as be restored, in the interest of justice and equity.
2. In support of the application the learned counsel for the Dhr has filed memo of facts contending that as the learned counsel for Dhr was

engaged in another court, he could not appear before the court when the matter was called, in the meanwhile the petition came to be dismissed. On these amongst other grounds it is prayed that the application be allowed and the Dhr seeking that the order of dismissal of the petition be set aside and the petition as be restored.

3. Since there is no representation for Jdr, objections to IA-I is taken as not filed.

4. Heard the learned counsel for Dhr on IA-I.

5. On careful perusal of application under consideration and the affidavit in support of it, the following points arise for the consideration of this court:

*1. Whether the Dhr has made out sufficient grounds to restore the petition to its original number by setting aside the dismissal order?*

*2. What order:*

6. After carefully analyzing the application, objections, ordersheet and the authorities relief upon by plaintiff, this court proceeds to answer the afore raised points for consideration as under:

*Point No.1 : In the Affirmative*

*Point No.2 : As per the final orders,*

for the following reasons.

**:REASONS:**

**POINT No.1:**

7. At the very outset it is clear that the application is filed praying that the Dhr seeking that the order of dismissal of the petition be set aside and the petition as be restored. It is the contention of the learned counsel for the Dhr that as the learned counsel for Dhr was engaged in another court, he could not appear before the court when the matter was called, in the meanwhile the petition came to be dismissed and the application for restoration if filed on the very day of dismissal, this tribunal is of the opinion that the application is very much maintainable.

8. The learned counsel for the Dhr makes it clear that as the learned counsel for Dhr was engaged in another court, he could not appear before the court when the matter was called, in the meanwhile the petition came to be dismissed and on the developments in the case, the Jdr has paid some amount and conciliation is in progress, as such it is the firm opinion of this court that the innocent party should not be made to suffer due to mistake on the party of the learned counsel for the Dhr. Hence, the *Point for Consideration No.(i) is answered in the affirmative.*

9. **POINT No.(ii) :**

In view of the finding of this court on point No.1, this court proceeds to pass the following order:

**ORDER**

*“IA-I filed under section 151 of CPC by Dhr is hereby allowed.*

*Consequently the order dated 24.01.2026 whereby the petition was dismissed for non prosecution is hereby*

*recalled and the petition is ordered to be restored to its original number.*

*Issue arrest warrant to Jdr if P.F. is paid and subsistence charges are deposited, returnable by next hearing date*

*Call on 28.02.2026"*

Sd/-  
(AFTHAB.K.)  
Prl. Judge,  
Court of SC., & MACT., Mysuru.

