

IN THE COURT OF CIVIL JUDGE & J.M.F.C. AT Devadurga.**:- Present :-**

Sri Rafeeq Ahmed, B.A, L.L.B
Civil Judge & JMFC,
Devadurga.

Dated: 04th June 2026.**Civil Misc. No.04/2025**

Petitioner : Smt. Gouramma D/o Bhagamma
Devadasi, age: 48 years, Occ: Agri &
Household, R/o Guntral village,
Devadurga Taluk, Raichur District.
(By Sri.M.G., Advocate)

V/s

Respondents : 1. Smt. Gangamma D/o Amarappa
Devadasi, age: 53 years, Occ: Agri &
Household, R/o Guntral village,
Devadurga Taluk, Raichur District.
2. Smt. Balamma W/o Late. Mallappa D/o
Paramappa, age: 63 years, Occ: Household,
R/o Guntral village, Devadurga Taluk,
Raichur District.
3. Smt. Yallamma W/o Bhimappa and D/o
Paramappa, age: 60 years, Occ: Household,
R/o Masarakal village, Devadurga Taluk,
Raichur District.

(Respondents by Sri.T.N.S, Adv.)

ORDERS ON APPLICATION FILED U/O.IX RULE 4 R/w sec.151
OF CPC.,

The petitioner has filed this petition seeking Restoration of O.S.No.48/2020, which was dismissed for non-prosecution.

2. The brief fact of the case of the petitioner is as under:-

Petitioner submit that, she had filed Original Suit for Partition, Separate Possession, Declaration, Permanent Injunction and Rectification of ROR's by filing suit with affidavit before this Hon'ble Court and the case was registered in Original Suit No.48/2020. That, due to her ill-health and Knee Pain she has not appeared and also not instructed to her counsel of and she fail to take steps to the proposed defendants No.2 and 3, in that time the Hon'ble Court has dismissed for Non Prosecution On: 14-03-2025. That, accordingly the Hon'ble Court for non-appearance on her part had been dismissed the above aforesaid Suit as Non Prosecution. Therefore, due to her ill-health and she suffering Knee Pain deceases she could not contact the Counsel for filing the restoration petition in prescribed time. That, the said delay was caused due to the above said bona fide reasons and not due to any bad intention. That, If the application is allowed no harm or prejudice would be caused to the respondents/defendants and on the other hand if the application is not allowed she will be put to irreparable loss and injury to our right to claim partition. Hence pray to allow the application by condoning the 04 Months,

19 days delay in the ends of justice, equity and good conscience. Hence, this petitioner has filed the present petition seeking restoration of O.S.No.48/2020.

3. In pursuance of issuance of notice to the respondent No.1 have appeared through her counsel, The respondent No.1 did not filed objection.

4. On the basis of petitioner averments, following points arise for my consideration:-

-.POINTS:-

1. Whether the petitioner has made out sufficient grounds to restore O.S.No.48/2020 ?

2. What order?

5. My findings to the above points are as under:-

Point No.1: In the Affirmative.

Point No.2: As per final order for the following:-

-.ORDER:-

6. Point No.1:- It is the case of the petitioner that she had filed O.S.No.48/2020 seeking relief of partition and separate possession of her share in respect of suit schedule property.

Even though respondent has not filed objection. Apart from this, I have perused certified copy of order sheet in O.S.No. 48/2020 which is marked as Ex.P.1. On perusal of the order sheet, it is clearly shows that on 14-03-2025 the petitioner was not present to take steps to the proposed defendant. Hence, this

court has proceeded to pass an order to the effect that the suit of the petitioner dismissed for non-prosecution. As the respondent has not contested this matter there is nothing available on record to disbelieve the version of petitioner and the petitioner has sufficiently explained reasons behind her absence before the court on 14-03-2025.

7. Apart from this the civil rights of the petitioner need to be adjudicate in O.S.No. 48/2020 if O.S.No. 48/2020 is not restored as prayed for the petitioner will be put to great hardship and loss which cannot be compensated. Apart from this the petitioner has filed this petition within the limitation prescribed under Limitation Act. Hence my opinion the petitioner has made out sufficient ground to restore the O.S.No. 48/2020 on the file of this court and proceed with suit in O.S.No.48/2020. Hence, I answer to the point No.1 in the ***Affirmative.***

8. Point No.2:- In view of the discussion, my above and conclusion arrived at point no.1, I proceed to pass the following:-

:-ORDER:-

The petition filed by the petitioner under order IX rule 4 R/w 9 of CPC is hereby allowed on cost of Rs.3,000/-to be paid to the Advocates Bar Association Devadurga.

As a result O.S.No.48/2020 which has been dismissed for non-prosecution has been restored

in O.S.No.48/2020 at old Number and put up the file on 29.06.2026.

Office is directed to restore the file in O.S.No.48/2020 at old Number and put up the file on 29.06.2026.

(Dictated to the Stenographer, directly on computer, corrected by me and pronounced in the open court today this the 04th June-2026.)

Sd/-
(Sri Rafeeq Ahmed)
Civil Judge & J.M.F.C,
Devadurga.

A N N E X U R E

LIST OF WITNESSES EXAMINED FOR THE PETITIONER:

PW-1 Smt. Gouramma.

LIST OF WITNESSES EXHIBITED FOR THE PETITIONER:

Ex.P.1 C/c of order sheet in OS No.48/2020

LIST OF DOCUMENTS EXAMINED FOR THE RESPONDENTS:

----Nil----

LIST OF DOCUMENTS EXHIBITED FOR THE RESPONDENTS:

---- Nil----

Sd/-
(Sri Rafeeq Ahmed)
Civil Judge & JMFC.,
Devadurga.