

M.V.C.No.446/2025

The petitioner has filed present application under Order IX Rule 4 of C.P.C. and Sec.151 of C.P.C. prays the court to restore the case on the ground that the petitioner has paid process fee but due to oversight the copy of the application was not furnished. Non furnishing of the copy of the application is neither intentional nor deliberate but due to the bonafide reason as stated above. Accordingly, pray for allow the application.

Having heard the petitioner counsel, the reasons assigned in the application appeared to be reasonable and satisfactory. The petitioner counsel has not furnished the copies. Hence, this court dismissed the petition under Order IX Rule 2. The remedy is provided under Order IX Rule 4 of C.P.C. where if the suit is dismissed under Order IX Rule 2 then the party may apply

for an order to set aside the dismissal and if he satisfy the court that there was a sufficient cause for his non appearance then the court shall make an order setting aside the dismissal. As stated above, the petition was dismissed for non furnishing of copies. Now the petitioner not only filed application for restoration but also furnished copies. The M.V. Act is a beneficial legislation. If the application is rejected, the party would suffer that cannot be compensated in any manner. The court is of the view that the procedural loss are handmaid of justice and the matter ought to be decided on merits rather than technical grounds. Accordingly, proceed to pass the following:

ORDER

The application filed by the petitioner Order IX Rule 4 of C.P.C. and Sec.151 of C.P.C. is hereby allowed.

In the result, the petition is restored.

Office is directed to restore the petition and then issue

summons to respondents by
12.02.2026.

Prl.Sr. C.J. & CJM, Udupi