

IN THE COURT OF THE MUNSIFF CHENGANNUR
Present : Smt. Amala Lawrence, Munsiff,
Saturday, 16th day of August 2025/ 25th Sravana 1947

IA No.05/2025 in OS.No.90/2022
(Filed on 11.08.2025)

Petitioner/

1stDefendant : Iype.V.E, aged 72 years,
S/o Eappan,
Cherukalethu Vallyuzhathil,
Karakkadu .P.O, Chengannur
(By Adv.Deepa Stenet)

Counter Petitioner/ : 1.Alexander.C.M, aged 82 years,
Plaintiff S/o Mathai,
Cherukalethu Vallyuzhathil,
Karakkadu .P.O, Chengannur .

2. Mathew.C.M, aged 72 years,
S/o Mathai,
Cherukalethu Vallyuzhathil,
Karakkadu .P.O, Chengannur .

(By Adv. K.R.Rajeshkumar & Thomas Philip)

This petition having been finally heard on 16.08.2025 and the court on the same day passed the following:-

ORDER

Petition filed by the petitioner/ defendant under Order 47 Rule 1 of Code of Civil Procedure.

2. **Petition averments, in brief, are as follows:-**

The petitioner is the defendant in the suit. On 02.08.2025, when the case was listed for trial, the petitioner filed I.A. No. 4/2025

seeking removal of the case from the list, and I.A. No. 3/2025 seeking appointment of a commissioner. However, both applications were dismissed on 04.08.2025 on the ground that the petitioner was not ready for hearing. It is necessary that these applications be considered at the earliest, as there has been neither delay nor laches on the part of the petitioner. The petitioner's counsel could not appear on time due to a traffic obstruction, which resulted in the dismissal of the applications. Therefore, the orders passed in I.A. No. 3/2025 and I.A. No. 4/2025 dated 04.08.2025 require review for the proper adjudication of the matter. Accordingly, the petitioner has filed the present application seeking review of the said orders. Unless the same is allowed, the petitioner will suffer irreparable loss and injury. Hence, this petition is filed.

3. The respondents did not file any objection but stiffly opposed the petition.

4. Heard. Perused the records.

5. Now the points that arise for consideration are:-

I. Whether the petition is liable to be allowed ?

II. Reliefs and costs?

6. **Point Nos. I and II:-** The petitioner's case is that on 02.08.2025, when the matter was listed for trial, the petitioner filed I.A. No. 4/2025 seeking removal of the case from the list, and I.A. No. 3/2025 seeking appointment of a commissioner. However, both applications were dismissed on 04.08.2025 on the ground that the petitioner was not ready for hearing. It is submitted that the said applications deserve to be considered on merits, as there has been neither delay nor laches on the part of the petitioner. The non-appearance of the petitioner's counsel was solely due to a traffic obstruction, which constitutes a sufficient and bona fide cause. It is a well-settled principle of law that in such circumstances, a liberal approach is to be adopted, particularly when no mala fides or gross negligence is attributable to the party concerned. The explanation offered is satisfactory and amounts to sufficient cause for non-appearance. In view of the above, and in the interest of justice, this Court is satisfied that the petitioner has made out sufficient cause for review of the order dated 04.08.2025. Accordingly, the petition is allowed. The order dated 04.08.2025 dismissing I.A. No. 4/2025 and I.A. No. 3/2025 is hereby reviewed, and the interlocutory applications are restored to file.

In result, petition allowed.

1. Order dated 4/08/2025 dismissing IA. 3/25 and IA.4/25 is hereby reviewed and interlocutory applications are restored to file.
2. No order as to costs.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in Open Court on this the 16th day of August 2025)

Sd/-

**AMALA LAWRENCE
MUNSIFF**

APPENDIX : NIL

**Id/-
MUNSIFF**