

**IN THE COURT OF CIVIL JUDGE (SENIOR DIVISION),
PERUMBAVOOR**

Present :- Smt. Annie Varghese, Civil Judge (Senior Division)
Wednesday, the 14th day of January 2026/24th Pousha 1947

I.A.2/2025 in A.S.No. 122/2007

Applicant/Appellant :-

Sukumaran, Aged 71 years, S/o Pappu, Chennai House, Kadamattom
Kara, Iykkaranadu North Village, Kunnathunadu Taluk.

By Adv. A.C.Thomas Adhikaram

Respondents/Respondents :-

1. Anandhan, Aged 71 years, S/o Pappu, Chennai House, Kadamattom
Kara, Iykkaranadu North Village, Kunnathunadu Taluk.
2. Kamalamma Sankaran, Aged 74 years, D/o Late Paru, W/o Sankaran,
Arakkaputhenpurayil, Edadu Kara, Nellikuzhy Vazhi, Nellikuzhy P.O,
Kothamangalam, PIN-686691.

R1 By Adv. G.Santhosh Kumar
R2 No vakalath

This petition is filed under Order XLI Rule 19 and Section 151
of the Code of Civil Procedure 1908 to pass an order to re-admit
A.S.No.122/2007. This petition is coming on for hearing on 07.01.2026 in
the presence of the above counsel and the court on 14.01.2026 passed
the following :-

ORDER

This is a petition filed by the counsel for the appellant under
Order 41 Rule 19 and Section 151 of CPC to re-admit the appeal on the
file of this court.

2. The averments in the petition in brief are as follows: on
25.11.2025 the appeal was dismissed for default since there was no
representation for the appellant. The appellant had entrusted Adv.Joby

Mathew for representing the case on 25.11.2025. Since Adv. Joby Mathew was a candidate for the block panchayat election, he was busy with his election work and omitted to represent the case on 25.11.2025. There are no willful laches or negligence on the part of the appellant. Unless the appeal is restored, the appellant will be put to irreparable injury and hardship. Hence this petition.

3. 1st respondent filed objection raising contentions which are briefly stated as follows: the petition is not maintainable and the statements in the affidavit are false. No ground was stated to re-admit the appeal. The appeal filed by the 1st respondent before the Hon'ble High Court of Kerala as RSA 645/2008 was remanded to this court with directions to dispose of the appeal before Christmas vacation, that the parties shall appear before this court on 29.09.2025, and that the appellant shall file impleading petition within 2 weeks to implead the legal heirs of 2nd respondent. It was directed that this court shall immediately allow the impleading petition and implead the legal heirs of 2nd respondent and dispose of the appeal on merits. As per the direction of the Hon'ble High Court, the parties appeared before court on 29.09.2025 and impleading petition was filed. Thereafter, on several dates, the petition was posted for steps. Since the appellant had not taken steps and since there was no representation for the appellant, the appeal was dismissed. The appellant has not stated any reason for not impleading the legal heirs of the 2nd respondent in time. Thus the appeal was dismissed not merely for non representation but also for not taking steps. Since the Hon'ble High Court had directed this court to dispose of the case before Christmas vacation, this court cannot consider this petition. The appellant have been filing false petitions and cases since many years causing hardship to the 1st respondent. The appellant has been trying to delay the matter and to that end, the petition has been filed.

4. 2nd respondent did not appear and was set exparte.
5. Heard both sides.
6. The point for consideration is whether the petition is allowable.

7. **Point:** The appellant's case is that since the counsel to whom the case was entrusted on 25.11.2025 did not represent the matter before court, the appeal was dismissed for default. However, it is seen that despite the direction of the Hon'ble High Court, the appellant had failed to take steps to implead the legal heirs of 2nd respondent within the time frame fixed by the Hon'ble High Court. The appellant had failed to appear before court on 27.10.2025, 05.11.2025, 14.11.2025, 18.11.2025 and 22.11.2025. No explanation is given for not taking steps to implead the legal heirs of 2nd respondent. However, this court is of the view that the appellant shall be given an opportunity to prosecute the matter so that the appeal is disposed of on merits. At the same time, the 1st respondent should be adequately compensated for the hardship caused to him.

In the result, the petition is allowed on payment of cost of Rs.1,000/- to the 1st respondent within 7 days from today, failing which the I.A. shall stand dismissed.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open court on this the 14th day of January, 2026.

Sd/-
Annie Varghese
Civil Judge (Senior Division)

Appendix : Nil

stn Compd by. amb

Sd/-
Civil Judge (Senior Division)