

IN THE COURT OF THE MUNSIFF, KOYILANDY
Present:- Miss. Raveena Naz, Munsiff, Koyilandy

Friday, the 27th day of March, 2026

ORDER IN IA (Restoration Petition) 1/2025 (RPIA 30/2025) in O.S. No. 4/2018

Between:

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| <ol style="list-style-type: none">1 Dakshayani, W/o. Dasan, Uramkunnummal, Viyyur Amsom, Kollam Desom, Koyilandy Taluk.2 Dasan, H/o. Dakshayani, Uramkunnummal, Viyyur Amsom, Kollam Desom, Koyilandy Taluk.3 Ramya, W/o. Rineesh kumar, Uramkunnummal, Viyyur Amsom, Kollam Desom, Koyilandy Taluk.4 Haridev (Minor), Represented by Mother, Ramya, W/o. Rineesh kumar, Uramkunnummal, Viyyur Amsom, Kollam Desom, Koyilandy Taluk. | } | Petitioners |
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And:

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| Uramkunnummal Lakshmanan, S/o. Kunhikanaran, Aswathi House, Viyyur Amsom, Kollam Desom, Koyilandy Taluk. | } | Respondent |
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This Petition coming on this day for final hearing before me in the presence of Sri. C.S. Jathish Babu, Advocate for Petitioners and Sri. K. B. Jayakumar and Sri. M. Sumanlal, Advocates for Respondent and the Court passed the following:

ORDER

1. The Petition is filed under Order 9 Rule 13 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') to set aside the *ex parte* decree dated 19.11.2025.
2. The gist of averments in the Petition, is as follows: The Petitioners herein are the Defendants in OS 4/2018. The case was listed for trial to 03.11.2025. When the case was listed for trial the counsel entrusted by the Petitioners relinquished the vakalath and a new counsel was entrusted with the case. IA 15/2025 filed to remove the matter from the list for taking steps. The

Petitioners were not aware that IA 12/24 was dismissed on merits. Due to severe pain on the knees of the 1st Petitioner, she could not give proper instructions to the counsel. It was only on inquiry with the counsel at a later stage the Petitioner has come to know that the suit was *ex parte*. Hence the Petition.

3. Notice were served upon the Respondent. The Respondent filed Objection contending as follows: The averment in the Petition that the Petitioners were not aware that IA 12/24 was dismissed on merits is false and denied. IA 12/24 was dismissed after hearing both parties via detailed order. The averment in the Petition that IA 12/24 was dismissed due to the non-representation of the Petitioners are false. The averment in the Petition that the Petitioners could not contact the lawyer as the 1st Petitioner was under treatment for knee pain is false. The attempt of the Petitioner is to drag the proceedings and to cause injury and hardship to the Respondent. The Petition is to be dismissed with costs to the Respondent.

4. Upon rival contentions the following points are formulated for consideration:

1. Is the Petitioner entitled to set aside the *ex parte* decree dated 19.11.2025?
2. What shall the order as to costs?

5. Heard the counsels for Petitioners and Respondent.

6. **Point No. 1:**

As evident from the records of the case, the suit was listed for trial to 03.11.2025. As the learned counsel for the Petitioners submitted no

instructions from his client, the evidence of the Plaintiff was taken *ex parte* and decree was passed on 19.11.2025. In support of the contentions of the Petitioners a medical certificate is produced with the Petition. The medical certificate is dated 01.11.25 wherein the 1st Petitioner was advised to take rest for a period of 60 days. No reason has been offered by the Petitioners as to why the other Defendants could not contest the suit or give necessary instructions to their counsel. However, it is pertinent to note that the Petition was filed on 08.12.2025 without much delay after the suit was decreed *ex parte*.

7. In the interest of the justice and strictly abiding to the principles of natural justice, the case has to be decided after hearing both the parties and after analysing the best evidence available. This Court is of the view that another opportunity can be granted to the Petitioners to redress their grievance. However, the hardship caused to the Respondent has to be compensated with costs. Therefore the Court is inclined to allow this Petition.

Point No. 1 is found in favour of the Petitioners.

8. Point No. 2:

In view of discussions and findings on point No. 1, the Petition is to be allowed. In order to redress the hardship caused to the Respondent costs of Rs. 4000/- (Rupees Four Thousand only) is allowed to Respondent.

In the result,

The Petition is allowed and the ex parte decree dated 109.11.2025 is set aside on payment of costs of Rs. 4000/- (Rupees Four Thousand only)

to the Respondents within 7 days from the date of this Order. Needless to state in the event of failure to pay or deposit costs as stipulated above the Petition shall stand dismissed.

(Dictated to the Confidential Assistant, transcribed by her, corrected and pronounced by me in open court, this the 27th day of March, 2026).

Sd/-
MUNSIFF

Witness & Exhibits on either sides : Nil

Sd/-
MUNSIFF

Order in RPIA 30/2025 in
OS 04/2018 Dated:27.03.2026