

IN THE COURT OF THE MUNSIFF'S, PUNALUR
 PRESENT :- Smt. Reshma R.S, Civil Judge (Junior Division).
 Wednesday the 18th day of March, 2026/27th day of Phalguna, 1947.

Common Order in IA 01/2025 and IA 02/2025 in RP 14/2025 in OS 499/2022

IA 01/2025 in RP 14/2025 in OS 499/2022

Between

Petitioners/

Defendants

- : 1. Ajith Kumar B, S/o Bhaskaran Nair, aged 52 years, residing at Ajith Bhavan, Thalappankodu, Vilavurkal P.O, Thiruvananthapuram.
 2. Akhila V.R, W/o Ajith Kumar, aged 42 years, residing at Ajith Bhavan, Thalappankodu, Vilavurkal P.O, Thiruvananthapuram.

(By Adv. Sajeev S.R)

And

Counter Petitioners/

Plaintiffs

- : 1. Suresh Kumar S.S, S/o Somarajan Nair, aged 50 years, residing at Kunnumpurathu House (Vaikundam) Machel, Malayinkeezhu P.O, Kattakada.
 2. Asha Rani S, W/o Suresh Kumar S.S, aged 39 years, residing at Kunnumpurathu House (Vaikundam) Machel, Malayinkeezhu P.O, Kattakada.

(Ex-parte)

IA 02/2025 in RP 14/2025 in OS 499/2022

Between

Petitioners/

Defendants

- : 1. Ajith Kumar B, S/o Bhaskaran Nair, aged 52 years, residing at Ajith Bhavan, Thalappankodu, Vilavurkal P.O, Thiruvananthapuram.
 2. Akhila V.R, W/o Ajith Kumar, aged 42 years, residing at Ajith Bhavan, Thalappankodu, Vilavurkal P.O, Thiruvananthapuram.

(By Adv. Sajeev S.R)

And**Counter Petitioners/
Plaintiffs** :

1. Suresh Kumar S.S, S/o Somarajan Nair,
aged 50 years, residing at
Kunnumpurathu House (Vaikundam) Machel,
Malayinkeezhu P.O, Kattakada.
 2. Asha Rani S, W/o Suresh Kumar S.S,
aged 39 years, residing at
Kunnumpurathu House (Vaikundam) Machel,
Malayinkeezhu P.O, Kattakada.
- (Ex-parte)**

These petitions are coming on for final hearing before me on 27-02-2026 and stood over for consideration to 18-03-2026 and on the same day the court passed the following.

COMMON ORDER

These applications are filed under Order IX Rule 13 and section 151 of the Code of Civil Procedure, 1908.

2. **The applications averments, in brief, are as follows:-** The applicants are the defendants in the suit. The suit was filed to recover money. On 21/12/2024, the suit was decreed ex-parte. Since 01/04/2023, the applicant was under treatment for low back ache, lumbar radiculopathy at General Hospital, Neyyattinkara. Thereafter, the applicant was bedridden due to back pain and started Ayurvedic treatment from 18/08/2024 to 12/10/2024 under the supervision of Dr. Faisal Khan, and the doctor advised the applicant to take rest for 6 months. There is no willful negligence or laches on the part of the applicant for not filing the

written statement in time, only because of his physical condition due to back pain treatment and subsequent rest, and because of the lack of funds to engage a lawyer at Punalur. Since the written statement was not filed, the defendants were set ex-parte, and the decree and judgment were pronounced on 21/12/2024. There occurred a delay of 87 days in filing the restoration application. There are no willful latches on the part of the applicant. The delay may be condoned, and an ex-parte decree dated 21/12/2024 may be set aside. Otherwise, it would cause irreparable injury, loss and hardships to the applicant. Hence, these applications.

3. Even though notice was served on the 1st and 2nd respondents by way of affixture, they did not appear before the court. Hence, this court ordered to proceed with the case against the respondents 1 and 2 ex-parte.

4. From the side of the applicants, Exts. A1 and A2 documents were marked.

5. Heard and perused the records.

6. The points that arise for consideration in these applications are as follows: -

- 1) Whether the delay of 87 days can be condoned?
- 2) Can the application to restore the suit back to the file be allowed after setting aside the ex-parte decree?
- 3) Reliefs and costs?

7. **Point Nos. 1 to 3:-** These points are considered together for convenience, brevity, and to avoid repetition of facts. The learned counsel for the applicants argued that the applications are to be allowed in the interest of justice. According to the 1st applicant, he was bedridden due to back pain and started Ayurvedic treatment from 18/08/2024 to 12/10/2024 under the supervision of Dr. Faisal Khan, and the doctor advised the 1st applicant to take rest for 6 months. Due to his physical condition and the lack of funds to engage a lawyer at Punalur, he could not file the written statement on time and the case was decreed ex-parte. Hence, prayed for allowing these applications.

8. The first thing to be considered is whether the delay of 87 days can be condoned. The reasons stated in the application are that the 1st applicant was bedridden due to back pain and started Ayurvedic treatment from 18/08/2024 to 12/10/2024 under the supervision of Dr. Faisal Khan, and the doctor advised the 1st applicant to take rest for 6 months. The physical condition due to back pain treatment, the subsequent rest, and the lack of funds to engage a lawyer at Punalur were also cited as the reasons. It is to be noted that, although notice was served on the 1st and 2nd respondents by affixture, they did not appear before the court.

9. It is a settled point of law that an applications filed under Order 9 Rule 13 of CPC are to be treated leniently. Here, the reason stated in the

application is that the 1st applicant was bedridden due to back pain and started Ayurvedic treatment, and the doctor advised the 1st applicant to take rest for 6 months. The applicants have produced the medical records to prove his contentions. A perusal of Exts. A1 and A2 substantiate the case of the applicants. Considering the facts and circumstances of this case, this court is of the view that the applicants succeeded in showing a sufficient cause to explain the delay. Hence, this court is of the view that the delay of 87 days can be condoned. Thus, point No. 1 is answered accordingly.

10. The next thing to be considered is whether the ex-parte decree passed against the applicants can be set aside. It is already found that the applicants succeeded in showing a sufficient cause for their non-appearance before the court, and the delay in filing the restoration application was already condoned. The same reason is cited to set aside the ex-parte decree also. As the applicants succeeded in establishing a sufficient cause, this court is of the view that this application can also be allowed. It is to be noted that setting aside the ex-parte decree may be prejudicial to the respondents. But as the respondents did not care to appear before the court or to file any objection setting forth the prejudice that may be caused to the respondents. Hence, this court is of the view that there is no need to allow any costs to the respondents to mitigate the prejudice. Thus, point Nos. 2 and 3 are answered accordingly.

In the result: IA 1/2025 and IA 2/2025 are allowed. The delay of 87 days is condoned. The ex-parte decree dated 21/12/2024 passed against the applicants is hereby set aside. The suit is restored back to file. There shall be no order as to costs.

Pronounced in open court on this, the 18th day of March 2026.

Sd/-
Civil Judge (Junior Division)

Appendix

Exhibits for the Petitioners

A1	01-04-2017	Medical Certificate issued from General Hospital, Neyyattinkara.
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A2	-----	Medical Certificate issued by Dr. S. Faisal Khan.
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Id/-
Civil Judge (Junior Division)

//True Copy//

Typed by : Reeja Jasmine M.V
Compared by :

CIVIL JUDGE (Junior Division)