

IN THE COURT OF MUNSIFF, KARUNAGAPPALLY

Present: Smt.Aswathy Nair, Munsiff.

Thursday the 12th day of February 2026/ 23rd day of Magha, 1947.

IA(Restoration Petition) 01/2025 (Rest. 35/25) in OS 352/2020

Between

Plaintiffs

- :1 Pradeep, Aged 55 Years,
S/o.Late Gangadharan,
Mukkel Veedu, Kuzhithura P.O.,
Alappad Village,
Karunagappally.
- 2. Prasanna, Aged 45 Years,
W/o. Pradeep, -do -
By Adv. D. Ashapoornadev

And

Defendants

- :1. Janardhanan @ Mani,
Aged 62 Years, Kochayyath,
Maru. Thekku, Alumkadavu P.O.,
Karunagappally.
- 2. Arun, Aged 35 Years,
S/o.Janardhanan @ Mani, -do -
- 3. Kiran, Aged 32 years, -do -
Adv. Nil.

This petition filed u/o.IX R.9 of CPC for restoring the suit.

This petition coming on for hearing before me on 12.02.2026 and on the same day the court passed the following:-

ORDER

Application filed by the petitioner/original plaintiffs in the suit for setting aside the order passed on 19.05.2025. Respondents are the defendants in this suit.

2. According to the petitioner, the above numbered case OS-352/2020 had been posted to 19.05.2025 for evidence and other proceedings. However, due to a clerical mistake committed by the clerk of the petitioners' former advocate, the said case had been wrongly noted in the diary of the former advocate as 29.05.2025 instead of 19.05.2025. As a result of the said mistake, the petitioners' former advocate could not appear before the Court on 19.05.2025, and therefore the petitioners could not be represented and the chief affidavit could not be filed on that day. It is further submitted that, in the absence of the petitioners and the petitioners' counsel on 19.05.2025, the said case came to be dismissed for default. Petitioners submits that the said default had occurred neither willfully nor due to any negligence on the part of the petitioners, but solely due to the inadvertent clerical error. This was not a deliberate negligence on their part. They request that this case be taken up again, failing which they will suffer irreparable loss and hardship. Hence the same may be allowed.

3. The 1st respondent has filed the following objection on behalf of the 2nd and 3rd respondents also:- The plaintiffs filed the suit with false, baseless and incorrect allegations without any valid cause of action. The defendants had already filed their written statement denying the allegations. The case was posted for evidence on 19-05-2025, but the plaintiffs and their counsel, though aware of the posting date, deliberately failed to appear before the court. Therefore, this Court dismissed the case for default. Since the plaintiffs' absence was willful, the petition filed by them to restore the case has no merit and need not be allowed. Hence, the respondents/defendants prays that the restoration petition be dismissed with costs.

4. On the basis of the above only point is to be raised for consideration.

Is the petitioners entitled to restore the suit and to set aside the order dated 19.05.2025.

5. Heard.

6. The point : – On consideration of the submissions of both sides and the materials on record, it is seen that the case was dismissed for default on 19.05.2025 due to the non-appearance of the plaintiffs and their counsel. The petitioners have explained the reason for the absence as a clerical mistake in noting the posting date by the advocate. In the above circumstances, this Court is satisfied that sufficient cause has been shown for the non-appearance of the

petitioners on 19.05.2025. Hence, the petition is allowed. The order dated 19.05.2025 dismissing O.S. No. 352/2020 for default is set aside and the suit is restored to file, subject to payment of costs of Rs.2,000/- to the respondents.

(Dictated to the Confidential Assistant, transcribed and typed by him, corrected and pronounced by me in open court on this the 12th day of February, 2026).

Sd/
Aswathy Nair,
Munsiff.

Appendix : Nil

Id/
Munsiff

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Munsiff

Typed by: Rekha. P.R.
Compared: