

IN THE COURT OF THE MUNSIFF, ADOOR

Present: Smt. Sherin Y.T, Munsiff.

Wednesday the 11th day of March, 2026
20th day of Phalguna, 1947 (S.E)

Review Petition No. 3/2024 in O.S 10/2019

Between:-

The Travancore Rural Development- Producer Company Ltd., Adoor, represented by Executive Director, R.Seena	} } } }	Petitioner
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(By Adv. V.S.Vijayan)

And:-

Suresh, Suresh Bhavanam, Thuvayoor North Muri, Erathu Village.	} } }	Respondent.
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(By Adv P.R.Biju Chandran)

This petition is coming on for hearing on 11.03.2026 and on the same day, the court passed the following:

ORDER

R.P. No. 3/2024 is filed by the petitioner/plaintiff to set aside the dismissal order dated 30.08.2022 in the above suit, and I.A. No. 1/2024 is filed to condone the delay of 775 days in filing the said petition.

2. ***Petition averments, in brief, are as follows:*** The plaintiff company conducted a Mutual Benefit Fund from 15.07.2012 to 15.02.2014 with a deposit amount of ₹2,00,000. The defendant joined the scheme as member No. AX 250-15-16 and received the amount in advance on 10.12.2012, but thereafter failed to remit the subsequent instalments in time. Towards discharge of the amount due, the defendant issued a cheque dated 02.04.2015 drawn on Pathanamthitta District Co-operative Bank, Adoor Branch in favour of the plaintiff. When the cheque was presented for collection, it was dishonoured. Hence, the plaintiff filed this suit for

recovery of the cheque amount. In this case, the defendant was set ex parte and time was granted for payment of the balance court fee. However, on 08.08.2022, the case file along with certain other files and the case diary was lost from the car of the plaintiff's advocate. Consequently, when the case was called on 30.08.2022, no submission could be made and the plaint was dismissed for non-payment of the balance court fee. The failure to make submission was not wilful but occurred due to the loss of the case file and diary, and therefore the circumstances constitute sufficient reason to review the order dated 30.08.2022. Hence, the plaintiff seeks to set aside the said order.

3. The respondent filed objection contending that the review petition and the petition for condonation of delay are devoid of bona fides and based on false averments, and are liable to be dismissed. It is contended that despite repeated opportunities, the plaintiff failed to remit court fee, and that the present petition is filed after an inordinate delay of 775 days on false grounds. It is further contended that no steps were taken to retrieve the records and that the petition is filed only to harass the defendant. Hence, dismissal with costs is sought.

4. Heard both sides.

5. The following points arise for consideration:

(1) Whether the delay in filing the petition to set aside the dismissal order is liable to be condoned?

(2) Whether the petitioner has shown sufficient cause for setting aside the dismissal order?

(3) Relief and costs?

6. **Point Nos. (1) & (2):** The case of the petitioner is that the delay occurred due to the loss of the case file and case diary from the car of the counsel on 08.08.2022, which resulted in

non-representation and consequent dismissal of the plaint on 30.08.2022. I do not find any reason to disbelieve the explanation offered by the petitioner. In the present case, though the delay is considerable, the reason stated cannot be brushed aside in toto at this stage. The dismissal of the plaint was not on merits, but for non-payment of court fee. Denial of an opportunity to prosecute the suit may result in irreparable prejudice to the petitioner. At the same time, the conduct of the petitioner reflects negligence, which cannot be ignored. I am satisfied that the petitioner has shown sufficient cause to condone the delay. In such circumstances, this Court is of the view that the delay can be condoned and the dismissal order can be set aside, subject to payment of reasonable costs to the respondent. Accordingly, Point Nos. (1) and (2) are found in favour of the petitioner.

7. Point No. (3): In the result, I.A. No. 1/2024 is allowed and the delay of 775 days in filing the review petition is condoned. Consequently, R.P. No. 3/2024 is also allowed and the order dated 30.08.2022 is set aside. The suit shall stand restored to file, subject to the condition that the petitioner shall pay a cost of ₹2,500/- (Rupees Two Thousand Five Hundred only) to the respondent within **5 days** from the date of this order.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in open court on this the 11th day of March, 2026.

Sd/-
SHERIN. Y.T,
MUNSIFF.

Appendix:- Nil

Id/-
MUNSIFF.

Fair/Copy of Order in
Review Petition No. 3/2024 in O.S 10/2019
Dated: 11..03..2026.