

IN THE COURT OF THE MUNSIFF, IRINJALAKUDA
Present: Smt. Abeena C. H., Additional Munsiff
Monday, 30th day of March 2026/9th Chaithra, 1948

Restoration Petition 31/2025 in O.S. No. 2816/2017

Petitioner/Plaintiff:-

Vijayalakshmi, 70 years, W/o Manaparambil Vijayan,
Thumboor Desom, Kottanellur Village, Mukundapuram
Taluk.

By Adv. K. Gopakumar

Respondents/Defendants:-

1. Devaki, 85 years, W/o Koovakattil Ayyappakutty,
Thumboor Desom, Kottanellur Village, Mukundapuram
Taluk.

2. Mohanan, 62 years, S/o Koovakattil Ayyappakutty,
Thumboor Desom, Kottanellur Village, Mukundapuram
Taluk.

By Adv. M. V. Sathianarayanan

This petition coming on this day for hearing and the court
delivered the following:

ORDER

1. Petition filed by the plaintiff to restore the suit, which was
dismissed for default.

2. **Averments of the petitioner are as follows:** The petitioner
is the plaintiff in the suit, which is for fixation of boundary and
perpetual injunction. The case was included in the special list and was
scheduled for trial on 06.02.2025. However, the petitioner was
bedridden, having undergone surgery for piles. Owing to the said

circumstances, the petitioner was unable to appear before this court, consult his advocate, or provide necessary instructions. As a result of her absence, the suit was dismissed for default on 06.02.2025. There has been no willful negligence or laches on the part of the petitioner in failing to attend the court. The petitioner has genuine and serious claims in the suit, and believes that if the matter is adjudicated on merits, the result would be in her favor. If the petition is not allowed, the petitioner will suffer irreparable injury and loss. In the above circumstances, the petitioner prays that this Court may be pleased to restore the suit that was dismissed for default, in the interest of justice. Hence, this petition.

3. Notice was served to the respondents. It is reported that 1st respondent passed away. No steps were seen taken to implead her legal heirs. The second respondent filed objection.

4. **Contentions of the 2nd respondent are as follows:** The petition is not maintainable either in law or on facts and is liable to be dismissed. All the averments in the petition, except those admitted herein, are false and hence denied. The reasons stated in the affidavit along with the petition are not sufficient to restore the suit. The

petitioner contended that she was bedridden due to having undergone surgery for piles; however, she did not produce any evidence to substantiate her claim. The petition is devoid of merit and is liable to be dismissed.

5. The following points arise for consideration:-

- 1) Whether the judgment dated 06.02.2025 is liable to be set aside?
- 2) Reliefs and costs?

6. Heard both learned counsel and perused the case records.

7. **Point 1:** The petition has been filed by the petitioner to restore the suit, which was dismissed for default due to the non-appearance of the petitioner when it was listed for trial. The suit is for fixation of boundary and perpetual injunction. The reason stated by the petitioner for her absence is that she was bedridden due to having undergone surgery for piles. It is also to be noted that the petitioner is aged 70 years. Though no documentary evidence has been produced to substantiate the plea of illness, having regard to her age, the nature of the suit, and in the interest of justice, I am of the view that the petitioner may be given a fair opportunity to proceed with the case. Admittedly, the suit is of the year 2017, and there is no delay in filing

this restoration petition. Therefore, in the interest of justice, the petition is allowed. However, to alleviate the hardship caused to the respondents/defendants, the restoration shall be subject to payment of costs.

8. **Point 2:** In the result,

Restoration Petition is allowed as follows;

- i. Judgment dated 06.02.2025 is set aside and suit is restored on file against all defendants subject to payment of Rs.2,000/- as cost to the respondents/defendants. If the cost is not paid or deposited before court within seven days the I.A shall stand dismissed.
- ii. Pay costs of Rs.2000/- (Rupees two thousand only) to the respondents within 7 days and file memo.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in the open court on this the 30th day of March, 2026).

Sd/-

Abeena C. H
Additional Munsiff

APPENDIX:- Nil

Sd/-

Additional Munsiff

//True copy//

Additional Munsiff

Order in Rest. Ptn. 31/2025
in OS 2816/2017
Dated. 30.03.2026