

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

**Restoration Petition 128/2023 in OS 3232/2013**

**Petitioner/Plaintiff:-**

Ratnakumari, 65 years, W/o Vettikattuvalappil  
Balakrishnan, Kattungachira Desom, Irinjalakuda  
Village, Mukundapuram Taluk.  
By Adv. Cletus Thottappilly

**Respondents/Defendants:-**

1. Vasanthi, 42 years, W/o Sasidharan, Kattungachira Desom, Irinjalakuda Village, Mukundapuram Taluk.
2. Sasidharan, 65 years, Husband of 1<sup>st</sup> defendant.
3. Mohanan, 75 years, Poyyathra Veetil, East side of Rose Bar, Kattungachira Desom, Irinjalakuda Village, Mukundapuram Taluk.
4. Lathika, 61 years, W/o Poyyathra Veetil Mohanan, East side of Rose Bar, Kattungachira Desom, Irinjalakuda Village, Mukundapuram Taluk.

Addl.5.Akshay, 30 years, S/o Thachilath Sasidharan, Kattungachira Desom, Irinjalakuda Village, Mukundapuram Taluk.

Addl.6.Anubhava, 26 years, D/o Thachilath Sasidharan, Kattungachira Desom, Irinjalakuda Village, Mukundapuram Taluk.  
(Impleaded as per order in IA 3/25 dtd. 12.02.2025)

R1,5 and 6 Exparte

R3 and R4 By Adv. V. G. Subash Chandra Babu

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

**ORDER**

1. Petition filed by the plaintiff in the suit 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 perpetual injunction. The case was included in the special list and was scheduled for trial on 16.10.2023. However, the petitioner was suffering from high fever, dizziness, and other age-related ailments, which made it difficult to travel. Owing to the said circumstances, the petitioner was unable to appear before this court. As a result of her absence, the suit was dismissed for default on 16.10.2023. 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 favour. 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 2, 3 and 4. It is reported that 2<sup>nd</sup> respondent passed away. His legal heirs are impleaded as additional respondents 5 and 6. Substituted service was initiated against the respondents 1, 5 and 6 as the notice could not be served through usual mode. Paper publication was produced by the petitioner and notice was affixed and published. As the respondents 1, 5 and 6 remained absent despite service, the petition proceeded ex parte against them. The respondents 3 and 4 filed objection.

4. **Contentions of the respondents 3 and 4 are as follows:**

The petition is not maintainable in law and is liable to be dismissed. The reasons stated in the affidavit along with the petition are not sufficient to restore the suit. The petitioner contended that she was suffering from high fever, dizziness, and other age-related ailments; however, she failed to produce any evidence to substantiate the said claim and did not file any petition seeking adjournment of the case. In the absence of any supporting material or procedural compliance, the present petition is devoid of merit and is liable to be dismissed.

5. The following points arise for consideration:-

1) Whether the judgment dated 16.10.2023 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 on 16.10.2023 due to the non-appearance of the petitioner, when it was listed for trial. The suit is for perpetual injunction. The reason stated by the petitioner for her absence is that she was suffering from high fever, dizziness, and other age-related ailments, which made it difficult to travel. It is also to be noted that the petitioner is aged 65 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 2013, 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;**

- 1) Judgment dated 16.10.2023 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.
- 2) 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 30<sup>th</sup> day of March, 2026).

Sd/-  
**Abeena C. H**  
**Additional Munsiff**

**APPENDIX:-** Nil

Sd/-  
**Additional Munsiff**

**//True copy//**

**Additional Munsiff**

Copied by: rh

Com. by:

Order in Rest. Ptn. 128/2023  
in OS 3232/2013  
Dated. 30.03.2026