

**IN THE COURT OF THE MUNSIFF, ATTINGAL
PRESENT: SMT. SWATHI.R.KRISHNAN, MUNSIFF
MONDAY 30th SEPTEMBER, 2024 / 8th ASWINA, 1946**

IA No.1536/2022 in OS No. 374/2015

Petitioner/ Plaintiff:

Madhavan Nair, S/o Kunjukrishna Pillai, aged 76 years, Ayilyam,
Thazhe Elamba, Elamba Village.

By Advocate: Smt.Lali Sunil

Counter Petitioner/ Defendant:

Vidyanani, D/o Vijayakumar, Divya Bhavan, VRA-28, Vattavila,
Kaduvayil, M.C. Road, Attingal.

By Advocate: Sri. Vakkom. R. Jayaprakash

This petition filed by Adv.Lali Sunil to set aside the suit and restore the case having been finally heard on 30.09.2024 and the court on same day passed the following:

ORDER

This is a petition filed by the petitioner for setting aside the abatement of suit. The respondent filed objection. The respondent filed objection contending that the reason stated for the delay in filing the petition is not sufficient. The respondent contended that the 2nd defendant died on 15/03/2021, memo was filed to that effect. After 24/11/2018, there were several postings and during that time there were no covid restrictions. In Union of India V. Ramachandran AIR 1964 SC 215, the Hon'ble Apex Court held that the courts need not be over strict in expecting such proof of the suggested cause as it would accept for holding certain fact established, both because the question does not relate to the merits of the dispute between the parties and because if the abatement is set aside, the merits of the dispute can be determined. Hence in the instant case, the petitioner has contended that he first had no knowledge of the death and later he was restricted from filing the petition due to the Covid-19 restrictions and he is a senior citizen having oldage complaints. All these factors caused the delay. This Court is satisfied that these reasons are sufficient case Under Order XXII Rule 9 and eventhough the petition is filed misquoting the provisions that shall not act as a bar to granting the relief required if the essentialities are sufficiently shown. Hence petition is allowed.

Pronounced by me in Open Court on this the 30th day of September, 2024.

Sd/-

SWATHI.R.KRISHNAN
MUNSIFF

Appendix: Nil

Id/-

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//True Copy//

Typed by: Sheena.K
Compared by: Lasitha

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