

**IN THE COURT OF THE DISTRICT MUNSIF, SULUR**

**Present : Tmt.M.Santhosham., B.Sc., B.L.,**

**District Munsif, Sulur**

Thiruvalluvar year 2056 Visvavasu year, 23<sup>rd</sup> day of Panguni

Monday the 6<sup>th</sup> day of April 2026

**I.A.No.13/2025**

**in**

**IA.No.10/2025**

**in**

**OS.No.92/2020**

1. Murugan

2. Jayamani

**... Petitioners/Petitioners/Plaintiffs**

**/VS/**

Radhamani

**...Respondent/Respondent/Defendant**

This petition is coming for final hearing before me in the presence of Ms.R.Krishnaveni, Advocate for the Petitioners and Thiru.T.Muralidharan, Advocate for the Respondent and upon perusing the records, and this court made the following:

**ORDER**

Petition filed by the petitioners under Order 9 Rule 9 and section 151 of CPC to restore the I.A.No.10/2025 which was dismissed for default on 05.08.2025.

**1. The brief averments of the affidavit filed by the Petitioners as follows:-**

1.1. The petitioners have filed the above suit for permanent injunction and for Mandatory injunction against the respondent in respect of the suit property. Petitioners have filed the above I.A.No.10/2025 praying this court to grant the petitioners to amend the plaint. Petitioners' counsel had appeared before this court

prior to 05.08.2025 and clarified this court with respect to amendment sought. Petitioners' counsel fell down and got sprain in her left leg. The doctor had advised her to take completed bed rest. Hence, she was not able to appear before this court and further clarify the matter.

1.2. Due to the non appearance, this court was to dismiss the I.A.No.10/2025 for default on 05.08.2025. Petitioners non appearance is neither wanton nor willful but due to the above said bonafide reason. Petitioners have diligently prosecuted the case and have not been negligent at any stage. This petition is filed in good faith and solely with the intent of ensuring that justice is duly served. Petitioner have no intention of causing delay or prolonging the proceedings. Further more, the respondents will suffer no prejudice if the I.A.No.10/2025 is restored to file. Unless the I.A.No.10/2025 is restored to file, petitioners will be put to irreparable loss and injury. Hence, the petition is to be allowed.

## **2. The brief averments of counter statement filed by the Respondent as follows :-**

2.1. The petition filed by the petitioner for restoration of I.A.No.10/2025 is not maintainable. The averments contained in the petition are denied as false by this respondent. Several opportunities were given to the petitioner for clarification, but petitioners failed to appear or clarify. Hence, the petition was dismissed. Now the petitioner has filed the present petition for restoration. The petitioners has not provided proper or sufficient reasons for restoration. The petition lacks merit and is not maintainable at this belated stage and hence, it is liable to be dismissed.

3. No Witnesses were examined on either side, and no documents were marked as exhibits.

**4. Points for Consideration :-**

Whether the petition under Order 9 Rule 9 and section 151 of CPC to restore the I.A.No.10/2025 which was dismissed for default on 05.08.2025 is to be allowed?

**5. Points:-**

5.1. The Petition affidavit, counter and the enquiry of both parties were carefully considered. Heard the counsels for both the parties. The suit documents were carefully examined. The Original suit was filed seeking for the relief of Declaration, Permanent injunction and Mandatory injunction. Now the suit is pending for DW.1 for marking of documents.

5.2. The petitioners stated that, Petitioners have filed the I.A.No.10/2025 to amend the plaint. Petitioners' counsel had appeared before this court prior to 05.08.2025 and clarified this court with respect to amendment sought. Petitioners' counsel fell down and got sprain in her left leg. The doctor had advised her to take completed bed rest. Hence, she was not able to appear before this court and further clarify the matter. Due to the non appearance, this court was to dismiss the I.A.No.10/2025 for default on 05.08.2025.

5.3. The respondent objected that, several opportunities were given to the petitioners for clarification, but petitioners failed to appear or clarify. Hence, the petition was dismissed. Now the petitioner has filed the present petition for restoration. The petitioners has not provided proper or sufficient reasons for restoration.

5.4. On perusal of records, the petitioners are filed I.A.No.13/2025 to amend the plaint. On 05.08.2025 the I.A.No.13/2025 is posted for petitioners side clarification on the same day the petitioners side no representation made and the said

I.A.No.13/2025 was dismissed for default on 05.08.2025. Hence, this court thinks it should always be desirable to decide the case on the merits and not otherwise. Hence, this court is of the view, that being a trial court, in the interest of justice, the petitioners/plaintiff to give one more opportunity to conduct the case on merits. But the delay should be compensated by way of cost.

**In the result, this petition is to be allowed on payment of cost of Rs.1000/- paid to the Respondent/Defendant on or before 10.04.2026. On failure this petition stands dismissed automatically. For compliance Call on 10.04.2026.**

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 6<sup>th</sup> day of April 2026.

Sd/M.Santhosham

**District Munsif,**

**Sulur.**

**List of witnesses and documents on petitioner side:-** - Nil

**List of witnesses and documents on Respondents side:-** - Nil

Sd/M.Santhosham

**District Munsif,**

**Sulur.**

Draft/ Fair Order

I.A.No.13/2025 in

I.A.No.10/2025 in

O.S.No.92/2020

Dated : 06.04.2026

DMC, Sulur.