

**IN THE COURT OF SUBORDINATE JUDGE,
MADURANTAKAM**

**Present: Mr. T.GANESH B.A., B.L.,
Subordinate Judge,
Madurantakam**

Thursday, the 04th day of December, 2025

I.A. 1/2025

in

O.S No. 24/2015

(CNR.No.TNCG13-000073-2015)

Murali Krishnan

...Petitioner/Plaintiff

..Vs..

1. Ammasammal

2. D. Vedhachala Reddiar

3. V. Perumal

4. Ravi

5. D. Kannayirama

6. D. Subramania Reddiar

...Respondents/Defendants

This petition coming up for final hearing on 20.11.2025 in the presence of Mr.S.Subramanian, counsel for petitioner/plaintiff and Mr.V.Agoram, counsel for the respondents/defendants 1 to 6 and after hearing the arguments on both sides, upon perusing the case records and having stood over for the consideration of this court till date, this court delivered the following.

ORDER

This petition is filed by the Petitioner/plaintiff under Order IX Rule 9 of Civil Procedure Code to restore the suit which is dismissed for default on 06.01.2025.

2. Averments of the petitioner:

Suit posted for trial on 06.01.2025. Due to relatives death the petitioner was unable to appear on that day. Hence the suit was dismissed for default. Hence this petition.

3. Objection filed by respondents/defendants in brief:

The respondent denies the allegations set out in the affidavit. There is no proof filed along with this petition. No valid reason to restore the suit and the reasons stated is not true. Just to harass the respondent, this vexatious petition is filed. The petition is filed maliciously. The other allegations stated in the petition are all incorrect. There is no valid reasons set out in the petition. There is absolutely no merit in the present petition. Hence the petition is liable to be dismissed with cost.

4. No oral or documentary evidence adduced by both parties.

5. Heard both sides. Perused the records carefully.

6. Point:

Whether this application can be allowed or not?

This petition is filed under Order IX Rule 9 of the Code of Civil Procedure seeking restoration of the suit which was dismissed for default on 06.01.2025.

It is the case of petitioner that due to relatives death, he was unable to appear on 06.01.2025 and hence he was called absent and the suit was dismissed for default. Per contra the respondents counsel defend that there is no valid reasons set out by the petitioner for his absence and hence the application is liable to be dismissed.

This Court has considered the rival submissions and perused the materials placed on record. The suit stood dismissed solely on account of the petitioner's absence on the date of trial. The question that arises is whether the petitioner has established "sufficient cause" for such non-appearance, as required under Order IX Rule 9 CPC.

The explanation offered by the petitioner is that he could not attend Court due to a bereavement in the family. Though no documentary proof has been filed in support of this reason, personal emergencies of such nature cannot be lightly ignored, particularly when they may reasonably prevent a litigant from appearing in Court. But on perusal of records this court posted the case for evidence of the petitioner on 14.10.2024 and there after it was adjourned on his request to 21.10.2024, 28.10.2024, 07.11.2024. 18.11.2024 and 25.11.2024. On 25.11.2024 the petitioner examined himself as Pw1 and thereafter it was adjourned to 02.12.2024, 09.12.2024, 16.12.2024 and finally on 06.01.2025 for appearance of petitioner and marking of documents. In spite of getting long adjournment, the petitioner didn't appear before the court and hence the suit was dismissed for default. This shows the lethargic attitude of the petitioner in proceeding a **10 years** old case.

Anyhow no loss or prejudice will be caused to the respondents if the suit is decided on merits. No bar to grant a final opportunity to the petitioner to proceed with the case. Accordingly, in the interest of justice, this Court is inclined to allow the petition for restoration of the suit dismissed for default on 06.01.2025, subject to suitable terms to compensate the respondents for the inconvenience caused. Hence this point is decided accordingly.

7. Result:

In fine this application is allowed on conditions that

- i) the petitioner shall pay a sum of Rs. 3000.00 (Rupees Three Thousands) only to the respondents 1 to 6 on or before 11.12.2025,
- ii) the petitioner shall appear on 12.12.2025 and subject himself for cross examination,
- iii) the petitioner shall also file list of witnesses to be examined on his side along with their chief evidence on 12.12.2025 and

iv) having received the cost the respondents shall cross examine the petitioner on 12.12.2025 itself and if possible the witnesses produced by the petitioner, in default the respondents shall return back the cost paid by the petitioner.

Call on 12.12.2025

Dictated by me to the Steno-Typist, typed in the computer directly by him, corrected and pronounced by me in the open court, this the 04th day of December 2025.

Subordinate Judge,
Madurantakam

Both sides Evidence and Exhibits :

Nil

Subordinate Judge,
Madurantakam

FAIR/DRAFT ORDER
I.A No. 1/2025
IN
O.S No. 24/2015
D.O.D: 04.12.2025
SUB JUDGE,
MADURANTAKAM