

**IN THE COURT OF THE II ADDITIONAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Selvi. V. Sivaranjani, B.A., L.L.B.,
II Additional District Munsif, Nagercoil.

Thursday, on the 6th day of November, 2025.

I.A. No.5 of 2025 in O.S. No.193 of 2018

CNR No.TNKK04-000316-2018

1. Senthamarai

2. Kathiravan

... Petitioners / Plaintiffs

-VS-

1. Kavitha

2. Mariya George

... Respondents / Defendants

This petition came before this court on 04.11.2025 for a final hearing in the presence of Mr. A.Gnana Sekar, Advocate for the Petitioner / Plaintiff and Mr. L. Rajadurai, Advocate for the 1st Respondent / 1st Defendant, counter not filed, set exparte and Mr. K. Sahaya dhas, Advocate for the 2nd Respondent / 2nd Defendant, endorsed “No counter” and upon hearing both side, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

ORDER

The petitioner has filed the above petition under Order IX Rule 9 and Section 151 of the Code of Civil Procedure, seeking to pass an order restoring

the suit, which was dismissed on 29.07.2025.

2. Gist of Averments in the Petitioner / Plaintiff Petition :

The Petitioner is the 1st Plaintiff in this suit and the petitioner herein. The 2nd plaintiff is petitioner's brother. The petitioner filed this affidavit for petitioner and for and on behalf of the 2nd plaintiff. The petitioner have filed the suit for Permanent Injunction against the 2nd defendant and his men and agents from disturbing the plaintiffs peaceful possession and enjoyment over the plaint schedule property and other reliefs.

3. The petitioner submitted that this suit stood posted on 29.07.2025 for trial. On that date, petitioner was called absent and the suit is dismissed for default. As a matter of fact, petitioner have applied revenue documents in revenue authorities. So, petitioner was about to collect require documents too. Hence, on that date, petitioner unable to appear before this court in order to open the trial, hence, this court called petitioner and the suit is dismissed for default on 29.07.2025.

4. That, the dismissal order passed against them, it will create unnecessary hardship and irreparable loss will occur. The suit is full of merit and petitioner have got good case. The petitioner hope eventually a decree will be passed in petitioner favour as prayed for. The default is neither willful nor wanton. It has occurred under the above said circumstances, which are beyond

petitioner control. Hence, the suit has to be restored to file lest petitioner will be put to irreparable loss and damages. Hence, this is to be allowed.

5) The 2nd Respondent counsel endorsed “No counter” in this petition and 1st Respondent, counter not filed, set exparte.

6) The point for consideration is whether the above petition has to be allowed or not?

7) Point:

Heard both sides. Records perused. The petitioner is the plaintiff in the suit filed for permanent injunction and other reliefs. The petitioner is the 1st plaintiff filing this petition for him and on behalf of 2nd plaintiff. The suit has been dismissed for default on 29.07.2025 for non-appearance of plaintiff, when the suit was posted for trial. The reason stated is that the petitioner have applied revenue documents in revenue authorities and the petitioner was also about to collect required documents. Hence, on that date, petitioner unable to appear before this court in order to open the trial, hence, this court called petitioner and the suit is dismissed for default on 29.07.2025.

8) Even though no documents were filed to substantiate the same. However, with a view to giving one more opportunity to the petitioner/plaintiff and deciding the case on merit, this court is inclined to allow this petition with conditional cost.

As a result,

This petition is allowed, on the condition that the petitioners shall pay a sum of Rs,500/- (Rupees Five Hundred only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 11.11.2025. otherwise, this petition would be dismissed. Call on 11.11.2025.

Dictated to the Steno-Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 06th day of November 2025.

II Additional District Munsif,
Nagercoil.

Petitioners side witnesses and documents : Nil.

Respondents side witnesses and documents : Nil.

II Additional District Munsif
Nagercoil.

Draft/Fair Order
I.A.No.5/2025 in
O.S.No.193/2018
Date: 06.11.2025.
II ADM Court, Nagercoil.