

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

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

Monday, on the 6th day of October, 2025.

I.A. No.7 of 2025 in O.S. No.130 of 2023

CNR No.TNKK04-000246-2023

U. Rani ... Petitioner / Plaintiff

-vs-

1. A. Suresh

2. Rajesh ... Respondents / Defendants

This petition came before this court on 26.09.2025 for a final hearing in the presence of Mr.Mr. R. Raja Ganapathi, Advocate for the Petitioner / Plaintiff and Mr. A. Salin, Advocate for the Respondents / Defendants 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 9 Rule 9 and Section 151 of the Code of Civil Procedure, seeking to pass an order to restore the suit dismissed on 03.06.2025 into file.

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

The Petitioner is the plaintiff in the suit. The petitioner has filed this suit for permanent injunction and other reliefs. In this case the original rent deed is in the possession of the 2nd defendant and only a Photo xerox copy was provided to the plaintiff. Due to urgent necessity of securing a rental property, the plaintiff accepted this and entered into the plaint schedule property. Now this court passed an order dated 18.04.2024 and ordered to pay the required deficit stamp duty before this court of Rs.25,630/-.

3. The petitioner submits before this court that if the defendant hand over the Original rent deed before this court, the plaintiff is ready to remit the required deficit stamp duty of Rs.25,630/- before this court. The petitioner have filed a separate memo to that effect regarding payment of required deficit stamp duty of Rs.25,630/-. Since this Original rent deed is available in the hands of the Respondents/Defendants, the payment of deficit stamp duty will not serve any purpose. Hence, this court pass a direction to pass produce the Original rent deed, So that the plaintiff will remit the deficit stamp duty.

4. On 03.06.2025 the above said case was posted for payment of required deficit stamp duty of Rs.25,630/ - and for trial. At that time petitioner had been suffering from illness; consequently petitioner was not in a position to meet petitioner's lawyer and to file a memo regarding payment of required

deficit stamp duty of Rs.25,630/- and to conduct the trial. Hence on 03.06.2025 the suit was dismissed for default.

5. The petitioner deposited the deficit stamp duty amount Rs.25,630/- as per e-court fee receipt No. TNCTO534G2535M710. In the above circumstances, it is highly necessary to restore the suit dismissed for default; otherwise irreparable loss and damages will be caused to petitioner. This is neither willful nor wanton only because of the above stated reasons.

6. Under these circumstances it has become highly essential that this court to pass on to restore the suit dismissed on 03.06.2025. Otherwise, petitioner would be put into irreparable loss and hardship. Hence, this petition is to be dismissed.

7. Gist of Averments in the Respondents Counter:

The Respondents have filed counter stating that the petition is not maintainable in law or on facts. The suit itself is a most vexatious suit filed without any pleadings and liable to be dismissed. The plaintiff has totally failed to prove that she is in possession and is relying on fraudulently created document. The suit ought not have been numbered at all for the basic fact that the rental deed on the basis of which the suit is filed itself is a created document without the signature of the owner of the property allegedly rented out.

8. The plaintiff has put out the case that the original of the rental agreement is with the 1st defendant. Contrary to this the plaintiff says that the defendant had not signed in that alleged agreement for sale. It is specific case of the defendant that the plaintiff has filed this case with the evil intention of grabbing the property of the defendant by fraudulent means. After creating a fraudulent document and managing to get the suit numbered the plaintiff wantonly avoided payment of the deficit stamp duty of Rs.25,630/- because she was aware that the case was a false case and that she has no chance of winning the case. The check slip was issued on 18.04.2024 and the suit was dismissed for default for not complying the check slip on 03.06.2025. Thus the check slip was pending for a period of one year one month and 16 days from 18.04.2024 to 03.06.2025.

9. In para 5 of the affidavit the plaintiff has clearly pleaded that “the payment of deficit stamp duty will not serve any purpose allegedly because she does not have the original rental deed with her”. Presently, there is no change of circumstance and without producing the original rental deed, the petitioner/plaintiff has remitted the deficit stamp duty and sought for restoration of the suit without any change of circumstance. This clearly shows that the plaintiff is not genuinely interested in suit but is filing such petitions only to drag the suit and harass the defendant.

10. The petition has been filed in a very casual manner and without stating any reason as to why the deficit stamp duty was not paid on time. The petition is devoid of merits and good faith. The plaintiff has not approached this court with clean hands. Hence, to accept the counter and dismissed the petition.

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

12) Point:

Heard both sides. Records perused. The petitioner is the plaintiff in the suit filed for permanent injunction and other reliefs. Since the court fee paid was in deficit, this court passed an order dated 18.04.2024 to pay the required deficit stamp duty of Rs.25,630/- before this court. On 03.06.2025, the case was posted for payment of required deficit stamp duty of Rs.25,630/- and to conduct the trial. When the petitioner failed to comply with the order, the suit was dismissed for default.

13. That being so, the petitioner stated in the affidavit that since the original rent deed is in the hands of the 2nd defendant and the petitioner was earlier compelled to proceed on a mere xerox copy in view of urgent necessity, under those circumstances it was not practicable for the petitioner to pay the full deficit stamp duty earlier, and doing so without the original document would have been futile and moreover on 03.06.2025, the petitioner was suffering from illness and was unable to meet her lawyer or file a memo for stamp duty, which

prevented compliance and led to dismissal.

14. The petitioner further asserts that the original rent deed is in the possession of the 2nd defendant whereas the respondent claims that the copy of the rental deed is a created fraudulent deed. These contentions are to be established by them at the trial and are not amenable to be determined in this petition.

15. However, the petitioner has since deposited the deficit stamp duty of Rs.25,630/- as evidenced by e-court fee receipt No.TNCT0534G2535M710, thereby demonstrating bonafides and readiness to comply fully. This court is of the considered view that the delay was neither willful nor negligent but arose from circumstances beyond the petitioner's control. In the interest of justice, this court is of the considered view that it would be just and equitable to condone the delay, set aside the dismissed order and restore the suit, with a direction that the defendants produce the original rent deed so that full compliance with stamp duty requirements may be ensured, and the matter may proceed on its merits. Therefore, 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 petitioner shall pay a sum of Rs.1,000/- (Rupees One Thousand only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 10.10.2025. otherwise, this petition would be dismissed. Call on 10.10.2025.

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 October 2025.

II Additional District Munsif,
Nagercoil.

Petitioner side witnesses and documents : Nil.

Respondent side witnesses and documents : Nil.

II Additional District Munsif
Nagercoil.

Draft/Fair Order
I.A.No.7/2025 in
O.S.No.130/2023
Date: 06.10.2025.
II ADM Court, Nagercoil.