

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

Present : Selvi. V. Sivaranjani, B.A., L.L.B.,

II Additional District Munsif, Nagercoil.

Friday, on the 25rd day of July, 2025.

I.A. No.6 of 2025 in O.S. No.140 of 2023

CNR No.TNKK04-000258-2023

1. Bala Murugan

2. Prabha Fernando

... Petitioners / Plaintiffs

-vs-

Kanyakumari Town Panchayat

rep. by its Executive Officer

... Respondent / Defendant

This petition came before this court on 21.07.2025 for a final hearing in the presence of Mr. M. Timitilal, Advocate for the Petitioners / Plaintiffs and Mr. A. Gnanansekar, Advocate for the Respondent / Defendant and upon hearing both sides, 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 which was dismissed for the default on 30.08.2024.

2. Gist of Averments in the Petitioners / Plaintiffs Petition :

The Petitioner is the 1st Plaintiff in the suit. The 2nd plaintiff is running travels along with petitioner. The petitioner was filing this petition for petitioner and on behalf of 2nd plaintiff. The above suit was posted for plaintiff side evidence on 30.08.2024. The petitioner have not appeared on that date before this court, this court has the suit for dismissed default. The petitioner was conducting this suit responsibly. Since, petitioner was unwell, petitioner could not met petitioner's Advocate for past one month and could not inform anything about this suit status to the 2nd plaintiff. For the above said reason, and 2nd plaintiff could not appear before this court for giving evidence, this is neither wilful nor wanton. It is necessary to give evidence and documents on behalf of plaintiff side to disclose the true nature in order to get an order from this court. Hence, it is necessary that this court to restore the dismissed order on 30.08.2024, If not, petitioner/plaintiff side will be into great irreparable loss. Hence, this court humbly restore the above, said, dismissed for default order on 30.08.2024. Hence, the petition is to be allowed.

3) Gist of the Averments in the Respondent / defendant Counter:

The Respondent / defendant has filed a counter stating that the petition is not maintainable in law and on facts. The petitioner did not come before this court with clean hands. The petition lacks bonafides and the petition is lack of

merits. Hence this petition is unnecessary one. The petitioner has filed this petition without any right or merit only with an intention to harass this respondent. This petition lacks bonafide. The petition is devoid of merits. The petitioner has no locus standi to file this petition. This respondent respectfully submits that the petitioner has not file this petition on any bonafide grounds, on the other hand the petitioner has filed this petition with malafide intention as to harass this respondent.

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

5) Point:

Heard both sides. Records perused. This suit is for the Permanent injunction. 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 30.08.2024 for non-appearance of plaintiff, when the suit was posted for plaintiff side evidence. The reason stated by the petitioner for non-appearance is due to illness, could not met their advocate, could not give information about the status of the suit to the 2nd plaintiff and hence both of the plaintiffs could not appear before this court on the hearing date. Even though there were no medical documents in support of the above said reasons produced by the petitioner.

6) 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 costs.

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 30.07.2025. otherwise, this petition would be dismissed. Call on 30.07.2025.

Dictated to the Steno-Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 25th day of July 2025.

II Additional District Munsif,
Nagercoil.

Petitioners side witnesses and documents : Nil.

Respondent side witnesses and documents : Nil.

II Additional District Munsif
Nagercoil.

Draft/Fair Order
I.A.No. 6/2025 in
O.S.No.140/2023
Date: 25.07.2025.
II ADM Court, Nagercoil.