

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

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

II Additional District Munsif, Nagercoil.

Saturday, on the 7th day of March, 2026.

I.A. No.17 of 2025 in O.S. No.117 of 2019

CNR No.TNKK04-000184-2019

L. Anthony Jey Vendhan

... Petitioner / Plaintiff

-vs-

1. P. Thavamani (died)

2. The Sub Inspector, District Crime Branch,

Kanniyakumari District, Nagercoil.

3. The Superintendent of Police,

Kanniyakumari District.

4. The District Collector,

Kanniyakumari District.

Addl.5. Jabarson Binny

Addl.6. Vinila Evangeline

(Addl. 5Th and 6th Respondents impleaded

as legal heirs of deceased 1st respondent

as per order in I.A.No.12 of 2024

dated 20.06.2025 and Plaint amended as per

order in I.A.No.16 of 2025 dated

11.07.2025)

... Respondents/Defendants
Addl. 5Th and 6th respondents/
Addl. 5Th and 6th defendants

This Petition came up before this Court on 24.02.2026, in the presence of Thiru. A. Gnana Sekar, Advocate for the Petitioner/Plaintiff and Thiru. C. Johnson, Government Pleader for the 2nd to 4th Respondents, endorsed “No counter” and 5th and 6th Respondents, called absent set exparte and 1st Respondent is died and upon hearing petitioner 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 IX Rule 9 and Section 151 of the Code of Civil Procedure, seeking to restore the suit.

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

The petitioner is the plaintiff in the suit filed for Permanent injunction. The petitioner submits that on 14.07.2023, while the suit came up for hearing, the petitioner was called absent in the Role Call as well as at 4:30 PM, hence this Court held that the petitioner was not interested in prosecuting the suit. therefore, the suit was dismissed for default.

3. The petitioner also submits that the petitioner was seriously suffering from Brain Hemorrhage (LifeThreatening Condition) and hence could not able to appear before this court. Further, the petitioner claims that his absence was not intentional but was only due to the reason stated above. Hence

this restore petition to be allowed.

4. The 2nd to 4th respondents counsel endorsed “No counter” in this petition and Addl. 5Th and 6th Respondents called absent, set exparte.

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

6. Heard the petitioner Counsel. Records perused.

Order IX of Code of Civil Procedure. deals with “Appearance of parties and consequence of non-appearance.” Order IX Rule 9 of the Code of Civil Procedure provides for restoration of suits dismissed under Order IX Rule 8 for non-appearance. When once a suit is dismissed wholly or partly, the plaintiff is precluded from bringing a fresh suit in respect of the same cause of action, however Rule 9 permits for filing of an application to set aside the dismissal order. As seen from the Rule, for an application for the restoration of the suit to be allowed, “sufficient cause” must be shown to the satisfaction of the court for non-appearance, when the suit was called.

7. The interpretation of “sufficient cause” is of relevance at this juncture. There exists no straitjacket formula for "sufficient cause".

8. In the instant case, the petitioner put forth his reasons for non-appearance on the said date was due to him suffering from a life threatening condition, called brain haemorrhage for which the petitioner produced no

medical certificate.

9. Wherein no medical certificate was produced to substantiate ill-health on the day of non-appearance. It was observed though premium should not be given to the negligence of litigant, a liberal approach leaning in favour of litigants who are incapacitated should be taken since dismissal of a suit would operate as a bar for initiating fresh suit on the same cause of action.

10. The satisfaction of the court on the “sufficient cause” is the crux in deciding restoration applications under Order IX Rule 9. It is reiterated as a principle of law that Order IX Rule 9 being procedural in nature, “sufficient cause” should receive a liberal consideration as an elastic expression in order to do substantial justice rather than being struck on technical rigidities.

11. Therefore, in the present case, even though the petitioner failed to produce any medical certificate in order to corroborate his illness, this court is of the considered view that the said reason could have happened and inevitable thereby being a sufficient cause for his non-appearance, hence in the interest of justice and equity, this court is inclined to allow this petition on conditional cost.

As a result,

This petition is allowed, on the condition that the petitioner shall pay a sum of Rs.1,000/- (Rupees Thousand only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 12.03.2026. otherwise, this petition would be dismissed. Call on 12.03.2026.

The Order directly dictated to steno-typist typed in computer, and after making necessary corrections, and pronounced by me in the open court, this the 7th day of March 2026.

II Additional District Munsif,
Nagercoil.

Petitioner side witnesses and documents -: Nil.

Respondents side witnesses and documents : Nil.

II Additional District Munsif
Nagercoil.

Draft/Fair Order
I.A.No.17/2025 in
O.S.No.117/2019
Date: 07.03.2026.
II ADM Court, Nagercoil.