

In the Court of District Munsif, Mudukulathur

Present : Ms.J.C.Aparna, B.A, L.L.B.,

District Munsif,

Mudukulathur.

Thursday the 3rd day of July 2025

I.A.No.4/2024

in

O.S.No.26/2015

Ganesan

through his power agent Muthukumar

..... Petitioner/Plaintiff

/VS/

1. Kasinathan

2. Vadivel

3. Prabu

4. Selvi

5. Gomathi

..... Respondents/Defendants

This petition came on 30.06.2025 before this court for a final hearing in the presence of Thiru.K.Umasankar, Learned Counsel for the Petitioner/Plaintiff, Thiru.S.Arichandran, Learned Counsel for the Respondents/Defendants and upon hearing both sides arguments and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:

ORDER

This petition has been filed under Order 9 Rule 9 of CPC to restore the suit in O.S.No.26/2015 which was dismissed for default on 09.07.2024.

2. The contention of the Petitioner/Plaintiff in brief:-

The petitioner herein is the plaintiff in the main suit. The main case was posted for trial on 09.07.2024 but, the petitioner due to ill health, the petitioner

went to the hospital and hence he was unable to appear for the hearing. Due to non appearance the case was dismissed for default on 09.07.2024. The petitioner states that the non appearance was neither willful nor wanton. Hence, the petitioner filed this petition to restore the suit or will be put to irreparable loss and hardship.

3. Brief averments of the Respondents/Defendants in brief:

The averments made in the petition are false and the petition is neither maintainable under law nor on facts. It is false to state that the petitioner due to ill health was unable to appear before this Court on 09.07.2024 and the suit for dismissed for default. It is stated that the petitioner has intentionally not appeared before this court and the suit was dismissed for default. This petition is filed belatedly to drag on the proceedings without any bonafide reason to restore the suit and hence it is liable to be dismissed with heavy costs.

4. Point for consideration:-

Whether the petition be allowed and the relief be granted as prayed for?

No documents filed on either side. Heard both sides.

5. Answer to the Point:-

5.1. The petitioner herein has filed the main suit for relief of Specific Performance and permanent injunction. The petitioner in his affidavit states that he was unable to contact his counsel due to ill health. But the respondents deny the claim of the petitioner. But seeing that the petitioner has filed this petition within the prescribed period and also stating that he is ready to proceed with the case. This itself would show that the plaintiff was not grossly negligent in the matter. Also considering the fact that the loss to the respondents can be compensated with cost, this court thinks that for the reasons stated in the affidavit it is fit to allow this petition to prevent multiplicity of legal

proceedings. Hence, in order to compensate the respondents for the hardship caused by the petitioner, it is appropriate to allow this application on payment of costs.

5.2. In the light of the above discussions, this petition is allowed on payment of costs of Rs.1,000/- to be paid by the petitioner to the respondents on or before 10.07.2025. Failing which this petition shall stand dismissed.

Directly dictated to the Steno Typist, corrected and pronounced by me in open court on this 3rd day of July 2025.

**District Munsif,
Mudukulathur.**

Both side witnesses and documents : Nil

**District Munsif,
Mudukulathur.**

