

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, ATTUR

**PRESENT : Tmt. D. JANSIRANI, MBA., LL.M.,
ADDITIONAL DISTRICT MUNSIF, ATTUR.
PRINCIPAL DISTRICT MUNSIF (F.A.C),**

Thursday, 26th day of February 2026

I.A. No. 3/2023 in O.S. No.409/2013

1. V.Krishnan
2. N.Viruthambal
3. L.Nallathambi

... Petitioners/Plaintiffs

-Vs-

1. A.Perumal Asari
2. K.Ganesan
3. S.Mani
4. The Tahsildar, Attur
5. The Village Administrative Officer
Pethanaickenpalayam

... Respondents/Defendants

This petition is came up on 07.02.2026 for final hearing before me in the presence of Thiru. A. Rajeshkannaa, Advocate for the Petitioners and Thiru. K. Chandrasekaran, learned Government Pleader for the 4th and 5th Respondents and 1st to 3rd respondents were remained set exparte and upon hearing the arguments on either side, and upon perusing the materials records, and having stood over till this day for consideration, this date, this court delivers the following,

ORDER

This petition has been filed by the petitioner under Order 9 Rule 9 and section 151 of CPC to restore the suit in O.S.No.409/2013 which was dismissed for default on 20.02.2023.

I.A.No.3 of 2023 in O.S.No.409 of 2013

2. **Brief averments made in the petition :**

The petitioner is the 3rd plaintiff in the suit. He stated that on 20.02.2023 the suit was posted for his appearance. On that day his close relative died and he had to go with the family. Therefore, he was unable to appear before the court on 20.02.2023. It was only when he met the lawyer yesterday and asked about the details of the case that he came to know that the above case was dismissed on 20.02.2023. The 3rd petitioner failed to appear in the court on 20.02.2023 was also due to his ill health and was not intentional. He has a good case and legal basis in the above case. Therefore, it is necessary and fair to order that the case, which was dismissed on 20.02.2023, be taken to file and processed. Therefore, it is necessary and justifiable for the Court to order the above mentioned suit, which was unilaterally dismissed on 20.02.2023, to be taken up for hearing. Otherwise, he will suffer great hardship and loss. Hence, the present petition.

3. **Brief averments made in the counter filed by the 5th Respondent and adopted by the 4th respondent:**

The petition is false, and it is completely wrong on facts. The averments mentioned in the petition except those that are specifically admitted herein and all other averments has to be prove by the petitioner with the documentary evidence. The averments mentioned in the para No.2 of the affidavit is partly true and partly false. It is true the suit was dismissed by the default of plaintiff on 20.02.2023 and it has to be prove by the petitioner that they went to relative condolence and due to that he could not present before this court on 20.02.2023.

Since the suit was posted to file APC and to carryout amendment in the plaint from 19.01.2023 to 20.02.2023 for three hearings. It is utter lie to states that petitioner and his family went to their relatives condolence so they were unable to present before this court on 20.02.2023 and no evidence was submitted before this court to prove that petitioner relative was died on the particular day. Since it has to be noted by this court that this suit was dismissed on 20.02.2020 due to the non appearance of plaintiff and

the plaintiff had filed restore petition on 03.01.2022, numbered as IA.No.1/2022 and the same was allowed on 20.01.2022 with cost of Rs.1000/-. Even after that the petitioner failed to appear before this court wantonly because the petitioners did not have intention to proceed with the suit so they willfully allows the suit to dismiss and files this petition. This petition is filed with the intention to dragon the suit. Hence, the petition liable to be dismissed.

4. Counter not filed by the 1st to 3rd respondents, hence the 1st to 3rd respondents set exparte.

5. *Now the point for consideration is Whether this petition is liable to be allowed or not?*

6. Discussion:

Heard the arguments of the learned counsel appearing for the petitioners and the learned Government Pleader appearing for the 4th and 5th respondents. The records placed before this Court were also carefully perused.

The present petition has been filed under Order IX Rule 9 read with Section 151 of the Code of Civil Procedure seeking restoration of the suit in O.S.No.409 of 2013, which was dismissed for default on 20.02.2023.

According to the petitioners, the suit was posted on 20.02.2023 for the appearance of the 3rd petitioner. On that day, due to the death of a close relative, the 3rd petitioner had to attend the family and therefore he was unable to appear before the Court. It is further stated that the petitioners came to know about the dismissal of the suit only when they later contacted their counsel, after which the present petition was filed seeking restoration of the suit.

On the other hand, the respondents have contended that the petitioners have not produced any material to substantiate the reason stated for their absence and that the petitioners had earlier obtained restoration of the suit and thereafter again remained

absent. Hence, according to the respondents, the petition has been filed only to delay the proceedings.

This Court has carefully considered the rival submissions. It is seen from the records that the suit was dismissed for default due to the absence of the petitioners on the hearing date. The reason assigned by the petitioners for their non-appearance is that they had to attend the funeral of a close relative. The said reason appears to be a plausible and acceptable explanation for the absence of the petitioners on the relevant date.

Further, the suit relates to the rights of the parties and if the suit is not restored, the petitioners would lose the opportunity to have the matter adjudicated on merits. Therefore, in the interest of justice and in order to provide an opportunity to the parties to contest the matter on merits, this Court is of the view that the petition deserves to be allowed.

Accordingly, this Court finds that the petitioners have shown sufficient cause for their non-appearance on the date when the suit was dismissed for default, and hence the petition is liable to be allowed.

7. Result:

In the result, this petition is allowed. The order of dismissing the suit on 20.02.2023 in O.S.No.409/2013 for dismissal is hereby set aside. The suit is restored to the file. No costs.

Dictated to the Steno typist directly, typed by him, corrected and pronounced by me in the open court on this the 26th day of February 2026.

**Principal District Munsif(F.A.C),
Attur.**

Witnesses on Both side: -Nil-

Petitioners side Documents : -Nil-

Respondents side Documents : -Nil-

**Principal District Munsif(F.A.C),
Attur.**

P.D.M. Court, Attur.(FAC)
DRAFT / FAIR ORDER
I.A. No. 3/2023 in O.S. No. 409/2013
Dated : 26.02.2026