

IN THE COURT OF THE PRINCIPAL SUBORDINATE JUDGE,
TIRUPPUR.

Present: Tmt. V. Sree Vidya, M.L.,
Principal Subordinate Judge, Tiruppur

Thursday, the 26th day of March, 2026

I.A.No. 2 /2025
OS.No.105/2012

Mary Varghese @ V.V. Mary ... Petitioner / Plaintiff

Vs .

1. C.V. Kunjani
2. Prema Varghese
3. V.V. Omana
4. V.V.Prabha

... Respondents / Defendants

On 06.03.2026, the petition came up before me in the presence of Thiru. S.Kumaran, Counsel appearing for the petitioner and Thiru.A.T.Sathiyamoorthi, Counsel appearing for the 2nd respondent, 1st respondent reported dead and the respondents No.3 and 4 having remained exparte and upon perusing the connected records, having stood over for consideration, this Court delivers the following:

ORDER

This petition is filed under Order 9 Rule 9 of the Code of Civil Procedure to restore the original suit in O.S. No.105/2012 on file.

Date:26.03.2026

PSJ Court, Tpr.

I.A. No.2 /2025 in
OS. No.105/2012

2. Case of the Petitioner/ Plaintiff in brief reads as follows:-

The petitioner herein is the plaintiff in the suit and she had filed the suit for partition against the respondents / defendants. The said case was posted to 11.01.2017 for appearance of the plaintiff. Since she was suffering from jaundice and taking natural treatment at Kerala, she was not able to appear before this Court and hence, the suit was dismissed for default. The petitioner has filed this petition to restore the main suit on file and if this petition is allowed, she will be given an opportunity to contest the suit. She has a very good case and in the contrary, if the case is not restored, she will be put to irreparable loss. Hence, the petition.

3) The Point for consideration is

Whether the suit in O.S. No.105/2012 has to be restored on file or not?

5) No oral or documentary evidence was let in from both side.

6) POINT:-

Both side heard. Records perused. Suit is for partition. The petitioner is the plaintiff whereas the respondents herein are the defendants in the main suit. It is the case of the petitioner / plaintiff that when the suit was posted to 11.01.2017 for her appearance, she was not able to appear before this Court since she was suffering from jaundice and taking natural treatment at Kerala and hence, the suit was dismissed for default, she has a very good case and in order to give an opportunity to contest the case, prayed to allow the petition under order.

The 1st respondent was reported dead and though the respondents No.3 and 4 were served with notice, they remained exparte in the petition filed u/s. 5 of the Limitation Act.

7) Fair opportunity is to be given to the respective parties to establish their case. No pre-judice would cause to the respondents / defendants in allowing the petition. By considering the facts and circumstances and that no objection was raised by the respondents, this court is inclined to the restore the main suit and accordingly, point is answered.

In result, the petition is allowed.

Dictated to the Steno-typist, typed by her as directly on Computer, corrected and pronounced by me in the open Court, dated this the 26th day of March, 2026.

Principal Subordinate Judge,
Tiruppur.

List of witnesses & exhibits on both sides: Nil

Principal Subordinate Judge,
Tiruppur.

Draft / Fair Order
I.A. No.2/2025
OS No.105/2012
Dt:26.03.2026
PSJ Court, Tiruppur.