

IN THE COURT OF THE DISTRICT MUNSIF, PALLADAM

**Present:- Thiru. V. Kalidasan, B.Com., L.L.M.,
District Munsif, Palladam.**

Thursday the 9th day of October 2025

IA No.5/2025

in

OS No.43/2010

1. Bakkiammal

2. S.Saravana Kumar

3. S. Velumani (Died)

...Petitioners/Plaintiffs

/Vs/

1. Karupakkal (Died)

2. Shanmuga Sundram

3. Subbulakshmi

4. Arumugam

5. Sri Ammasai Gounder (Died)

6. Krishnamoorthy

...Respondents/Defendants

This Petition is coming on 25.09.2025 for final hearing before me in the presence of Thiru.P.Sakthivel, B.Sc.,M.L., Advocate for the Petitioners and Thiru.K.A.Palaniswamy, B.Sc.,B.L., Advocate for the Respondents, Upon perusing the Petition, affidavit, counter statement and other connected materials on record and hearing the arguments of both sides and having stood over till this day for consideration, this court made the following...

ORDER

1. The petitioners filed this petition in IA No.5/2025 Under Order IX Rule 9 and Under Section 151 of CPC, that to restore the above suit which was dismissed for default on 29.10.2024.

2. Brief averments of the petitioners:-

The plaintiffs have filed the above suit for the relief of declaration and permanent injunction and other reliefs. The above case is posted for Plaintiff's side further proceedings on 29.10.2024. The petitioners with an intention to change their counsel and contacted another advocate to engage him for their representation and after they get back the case bundle from the previous counsel and contacted the present counsel Mr.P.Sakthivel. But, he advised the petitioners to get consent in Vakalath from previous counsel. When they were under that tension and failed to appear in time before this court in person. The above said bonafide reason only that while they unable to appoint our present counsel in time, our present counsel search the E-court official website and stated that the suit was dismissed for default on 29.10.2024. They have a valid case and every chance to succeed the case. Our absence is neither willfull nor wanted. Unless the suit is restored they will be put to much loss and hardship. Hence, this petition.

3. Brief averments of the counter filed by the Respondents/Defendants :-

The petitioners allegations that he is unable to appoint a present counsel in time and the present counsel search the E-Court official website and came to

know that the suit was called absent and the same was dismissed for default is false. The reasons mentioned in the petition affidavit is unbelievable and there is no truth at all. The petitioner very well to known the date of hearing of the suit on that date he should to appear in person directly before this court and explain the fact before the court. But he purposefully failed to appear before this court and abandoned the suit dismissed for default. Therefore, this petition is liable to be dismissed.

4. Points for consideration:

Whether this petition will be allowed or not ?

5. Heard petitioners and respondents 2 and 3. No oral or documentary evidence by the both sides. Respondents 4 and 6 have endorsed that this petition may be allowed on terms.

6. Answer to the point :

Materials on records perused. It is seen from the records the suit in O.S. No.43/2010 has been filed for Declaration. This petition was filed by the petitioners Under Order IX Rule 9 and Under Section 151 of CPC, that to restore the above suit which was dismissed for default on 29.10.2024.

7) The learned counsel for the petitioners submitted that the petitioner intended to appoint a new counsel and approached him to appear in this case. But in the change of vakalath consent of the earlier counsel not obtained. Hence, he advised the petitioners to obtain consent from the earlier counsel. Meanwhile the petitioners failed to appear before this court due to tension. On that day this court was dismissed

the above suit for default. Hence, this petition to restore the suit is necessarily to be allowed in order to conduct the case.

8) The learned counsel for the respondents 2 and 3 submitted that the reason stated by the petitioners is not convincing and in order to drag on the proceedings, the petitioners purposely failed to appear before this court and allowed this suit to be dismissed for default. There is no merits in the petitioners case. Hence, this petition is liable to be dismissed.

9) On considering the both side submission and on perusing the records it is seen that when the case posted for appearance of the petitioners/plaintiffs in the above suit, they failed to appear before this court. Therefore, this court had dismissed the above suit for default. The only reason stated by the petitioners is that they are in tension in changing the counsel and hence, they failed to appear before this court on 29.10.2024. In supporting the version of the petitioners though the above suit was dismissed for default on 29.10.2024, immediately within the prescribed limitation the petitioners filed this petition to restore the suit on 14.11.2024. The respondents 2 and 3 have not raised any serious objections and the respondents 4 and 6 are also endorsed that this petition may be allowed on terms. Considering the reason stated and the conduct of the petitioners, in the interest of justice, this court is inclined to allow this petition.

In the result, this petition will be allowed on condition to pay the cost of Rs.500/- each to the respondents/defendants 2 and 3, respondent/defendant 4 and respondent/defendant 6 on or before 24.10.2025. Failing which this petition will stand dismissed automatically. For compliance Call on 25.10.2025.

Dictated to Steno-Typist, and typed directly in computer and corrected & pronounced by me in open Court, on this 9th day of October 2025.

**District Munsif,
Palladam.**

Appendix:-

Petitioner's side Witness and Documents:- Nil

Respondent's side Witness and Documents :- Nil

**District Munsif,
Palladam.**