

IN THE COURT OF THE DISTRICT MUNSIF, PALLADAM

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

Friday the 06th day of February 2026

I.A. No.4/2025

in

O.S.No.140/2019

1. A.P. Karuppasamy

2. Ramathal (Died)

...Petitioners/Plaintiffs

/Vs/

1. The District Collector

Tiruppur District

2. The Thasildhar

Palladam Taluk

Palladam

3. The Village Administrative Officer

K.Ayyampalayam Village

4. Eswari

...Respondents/Defendants

This Petitions coming on 30.01.2026 for final hearing before me in the presence of Thiru.V.Raveendran, B.Sc.,B.L., Advocate for the Petitioners and Additional Government Pleader Tmt.T.Renukadevi, M.A.,B.L., Advocate for the Respondents 1 to 3, 4th respondent is set exparte, upon perusing the Petition, affidavit, Counter 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

i) The petitioner filed by the petition in I.A.No.4/2025 Under order IX rule 9 r/w Under Section 151 of CPC to restore the suit which was dismissed on 15.11.2024.

1. Brief averments of the petition filed by the petitioner:

The 1st petitioner has filed the above suit for declaration that his missed father Ponnappagounder is Civilly dead and also to declare the legal heirs. The above suit was posted on 15.11.2024 for trial. On that day due to his non-appearance and non-proceedings of the trial, the Court was pleased to dismiss the suit for default. On 15.11.2024, he have gone to the condolence of his close relative at Coimbatore. Therefore, he is not able to appear before this court and not able to instruct his counsel to proceed the trial. Therefore the court was pleased to dismiss the suit for default. The non-appearance and non-proceedings of the trial is not due to negligence and wanton. It is only because of the above said bonafide reasons. Immediately after the knowledge, he come forward with this instant application. Hence, this petition.

2. Brief averments of the counter statement filed by the respondent:

The petitioner did not mentioned any acceptable reasons for the restoration of suit. Actually the suit was filed by the petitioners/plaintiffs on 11.11.2019. the court framed the issues on 16.03.2023, and posted for trial on 12.04.2023. From that date till the disposal of the suit the petitioners/plaintiffs did not taken steps to conduct the trial. On 21.10.2024 the petitioners/plaintiffs filed the petition under order 17 rule 1 of CPC to adjourn the suit. The petition was numbered as I.A.No.3/2024. the court also allowed the petition in the interest of justice and posted for Trial Finally (No Further Adjournments) on

15.11.2024. On that day, the plaintiff has not present and failed to proceed with the trial. Hence, this suit was dismissed for default. The above said fact itself clearly proves that the petitioners had a deliberate intention to drag on the suit proceedings came forward with this petition is not maintainable one under law. Therefore, this petition liable to be dismissed.

3. Points for consideration:

Whether this petition will be allowed or not ?

4. Answer to the point :

5. Heard both sides. No oral or documentary evidence is let in by the both side. The 4th respondent was set exparte.

6. Answer to the point :

Materials on records perused. It is seen from the records the suit in O.S. No.140/2019 has been filed for Declaration. This petition was filed by the petitioners Under order IX rule 9 r/w Under Section 151 of CPC to restore the suit which was dismissed for default on 15.11.2024.

7) The learned counsel for the petitioner submitted that on 15.11.2024 the above suit was posted for trial, the petitioner was gone to the condolence of his close relative at Coimbatore. Therefore, the petitioner could not appear before this court. Hence, this court was dismissed the above suit for default. Therefore, this petition to restore the suit is necessarily to be allowed in order to conduct the case.

8) The learned counsel for the respondents 1 to 3 submitted that the reason stated by the petitioner is not convincing. In order to drag on the proceedings, the petitioner purposely failed to appear before this court and allowed this suit

to be dismissed for default. There is no merits in the petitioner's case and no documents supported for the contention of the petitioner. Hence, this petition is liable to be dismissed.

9) On considering the both side submissions and on perusing the records it is seen that when the case posted for trial, the petitioner/plaintiff had failed to proceed with the trial. Therefore, this court had dismissed the above suit for default. The only reason stated by the petitioner is that on that day the plaintiff was gone to Coimbatore to attend his close relative's death and hence, he could not proceed with the trial and thereafter he immediately filed this petition. Though, the reason stated by the petitioner is not supported by any documents, when the above suit was dismissed for default on 15.11.2024, immediately within the prescribed limitation the petitioner filed this petition to restore the suit on 03.12.2024. The respondents 1 to 3 have not raised any serious objections for this petition. Considering the reason stated and the conduct of the petitioner, 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.1,000/- to the District Legal Services Authority, Tiruppur on or before 19.02.2026. Failing which this petition will stand dismissed automatically. For compliance Call on 20.02.2026.

Dictated to Typist, and typed directly in computer and corrected & pronounced by me in open Court, on this 06th day of February 2026.

**District Munsif,
Palladam.**

Appendix:-

Petitioner's side Witness and Documents:- Nil

Respondent's side Witness and Documents:- Nil

**District Munsif,
Palladam.**