

IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, CHEYYAR

THIRUVANNAMALAI DISTRICT

Present :- **Tmt. K. Naleeni, B.com B.L (Hons), M.L.,**
Principal District Munsif, Cheyyar
Additional District Munsif, Cheyyar (FAC)
Thiruvannamalai.

Tuesday, the 08th day of July, 2025

I.A.No.05/2025 in O.S.No.25/2015

Minor Praveen Kumar,

(Rep. by his mother and Natural Guardian Ms. Radha)

..... Petitioner/Plaintiff

V.

Ravi

..... Respondent/Defendant

This petition is coming before me on **04.07.2025** for final hearing in the presence of Thiru.G. Nedunchezian, Advocate for the petitioner and Thiru. G. Gunasekaran, Advocate for the Respondent and upon hearing both sides and after careful perusal of the entire case records and having stood over for consideration till this day, this Court delivered the following:

ORDER

This Petition has been filed by the Petitioner /Plaintiff under Order IX Rule 9 of Code of Civil Procedure, 1908 to restore the suit, which was dismissed for default on 25.04.2024.

2. BRIEF AVERMENTS OF THE PETITION AS FOLLOWS:

The Petitioner is the Plaintiff in the OS.No.25/2015 and the petition has been filed by the Guardian of the Plaintiff. The petitioner states that on the

above suit, the stage was posted for steps to be taken by the Petitioner on 25.04.2024. However, on that day, the Petitioner was suffering from severe stomach pain and was unable to leave his residence. She was also unable to inform her counsel regarding her inability to attend court. The petitioner further states that as a result, the Petitioner was absent and no representation was made on her behalf, leading to the dismissal of the suit for default on 25.04.2024. The Petitioner submits that her non-appearance and non-representation was neither willful nor wanton. Hence this petition is filed under Order IX Rule 9 of the Code of Civil Procedure, 1908 by the Petitioner/Plaintiff, seeking to restore the above suit which was dismissed for default on 25.04.2024.

3. BRIEF AVERMENTS OF THE COUNTER AS FOLLOWS:

The Respondent states that the Petitioner's claim of severe stomach pain on 25.04.2024 as entirely false and fabricated and that the present petition has been filed belatedly due to personal animosity against the Respondents. The Respondent further submits that the Petitioner repeatedly sought adjournments under the pretext of producing evidence but failed to take any effective steps despite multiple opportunities granted by the Hon'ble Court. He further states that the suit was dismissed for default on 25.04.2024 solely due to the failure of the Petitioner. Further, he states that the present IA No. 2/25 was initially returned due to defects and was refiled after nearly a year, causing undue hardship and mental distress to the Respondents. The Respondent states that the Petitioner has deliberately avoided both civil and criminal proceedings only with the sole intention to harass the Respondents by keeping the suit pending unnecessarily. Hence, the Respondents prays to dismiss the present petition with costs.

4. THE POINT FOR CONSIDERATION :

The sole point to be considered is whether the present petition can be allowed or not ?

5. There is no oral or documentary evidence on both the sides.

6. DETERMINATION :

Heard the rival submissions on both sides and the relevant records were carefully perused.

On perusal of the records, it could be seen that, the case was posted for steps to be taken by the Petitioner/Plaintiff on 25.04.2024. However, as the plaintiff had not appeared before this court and as there was no representation on her behalf, the suit was dismissed for default. The Petitioner has now filed this petition seeking to set aside the dismissal order and thereby restoring the above said suit.

As per Order IX Rule 9 of Code of Civil Procedure, 1908, when a suit has been dismissed, the party may apply to set aside the dismissal order provided **sufficient cause** has been shown for non- appearance. It's well settled law that Applications under Order 9 Rule 9 has to be **construed liberally** so as to advance substantial justice. It is necessary that if the non-appearance is not deliberate, it ought to be allowed.

In the present case at hand, the petitioner contends that she was unable to appear on the above hearing date due to her illness. However, this Court finds that, the Petitioner has not produced any medical records to prove her claim nor she has examined herself in order to prove the said contention. The Respondent strongly objects in allowing this petition by stating that the reasons for the non-appearance is false and fabricated.

On careful perusal of both side contentions, this court sees that the reason stated by the Petitioner is found to be satisfactory. Even though the Respondent had raised objections to allow this Petition, this court considers that unless and until an opportunity is provided to the Petitioner present her case before this court, the matter in issue cannot reach its finality. Therefore,

considering the nature of the suit and in the interest of justice and further to avoid multiplicity of proceedings, this Court is inclined to allow this petition for the aforesaid reasons.

Accordingly, the dismissal order dated 25.04.2024 is hereby set aside and the Original Suit in OS. No. 25 of 2015 is restored to file.

7. RESULT :

In the result, this petition is hereby allowed. No order as to costs.

Dictated by me to the Steno typist, directly typed by her, corrected and pronounced by me in open court, on this the 08th day of July, 2025.

Principal District Munsif,
Additional District Munsif (FAC),
Cheyyar.

8. List of Witnesses:

On the side of the Petitioner : NIL
On the side of Respondent : NIL

9. List of Documents :

On the side of the Petitioners : NIL
On the side of Respondent : NIL

Principal District Munsif,
Additional District Munsif (FAC),
Cheyyar.