

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE AT TIRUVALLUR

Present: **Tmt. J. JULIET PUSHPA, B.Sc., M.L.,**
Principal District Judge, Tiruvallur

Wednesday, the 17th day of September, 2024

I.A.2/2024 IN IDOP.289/2020

Saranya,

.... Petitioner/Petitioner

/Vs/

Udhayasankar

....Respondent/Respondent

This petition coming on 11.09.2024 for final hearing in the presence of M/s V. Hemamalini, J. Prakash, learned counsels for the Petitioner and having the respondent called absent, set exparte, upon hearing the petitioner side perusing the records and having stood over for consideration till this date, this Court delivers the following:-

ORDER

This Petition is filed by the petitioner under Order IX Rule 9 of Civil Procedure Code to restore the original petition in IDOP No.289/2020 to file which was dismissed for default on 03.11.2022.

2. The averments in the petition in brief :

According to the petitioner, the Original Petition was filed by the petitioner as against the respondent seeking dissolution of marriage on the grounds of desertion and cruelty. When the original petition was posted on 03.11.2022 for appearance of the petitioner, due to serious illness, she could not be present, hence, original petition was dismissed for default. Hence, absence of the petitioner on 03.11.2022 is not wanton. The petitioner undertakes to proceed with the enquiry

as soon as this original petition is restored. Hence, prayed to restore the original petition.

3. The respondent remained exparte.

5. Now, the point for consideration is

1. **Whether petitioners are entitled to the relief as prayed for?**

2. **Whether this petition is to be allowed ?**

6. **POINT:**

Heard both side. Records perused.

This petition is filed by the petitioner, who is the petitioner in the Original Divorce Petition prays to restore the Original Petition, which was dismissed for default on 03.11.2022.

7. The case of the petitioner is that when the case was posted for appearance of the petitioner, due to serious illness, she was not present on 03.11.2022. As such, the original petition was dismissed for default.

8. On perusal of records and points put forth by the counsel for petitioner, it is learnt that the original petition was filed by the petitioner/wife herein as against the respondent seeking dissolution of their marriage held on 25.01.2019 on the ground of desertion and cruelty. When the original petition was posted for appearance of respondent on 06.07.2022, he appeared in party in person and thereafter, no representation for both the petitioner and respondent. On 03.11.2022 also, there was no representation for the petitioner as well as respondent. Hence, the original petition was dismissed for default.

9. The reason stated by the petitioner for non-appearance is that since she was seriously ill, she could not pursue the matter to contact her counsel and she came to know about the dismissal order belatedly appears to be reasonable and acceptable. Already the delay of 109 days in filing this petition was allowed by this Court in I.A.1/2024 dated 25.09.2025. Moreover, the case of the petitioner is not disputed by the respondent, as he remained *ex parte* in this petition. No prejudice would be caused to the respondent by allowing this petition, since the respondent will have ample opportunity to put forth his defence and the matter will be decided on merits.

10. Therefore, on considering the plea of the petitioner, in order to give an opportunity to the petitioner to prove her case, to avoid multiplicity of proceedings, as both parties will be benefited as the matter will be decided on merits, and also considering the nature of the relief, in the interest of justice, and considering other facts and circumstances, this Court is inclined to allow this petition.

In the result, this petition is allowed. No costs.

Dictated to Steno-typist, transcribed and typed by him, corrected and pronounced by me in Open Court, this , 17th day of September, 2025.

**PRINCIPAL DISTRICT JUDGE,
TIRUVALLUR**

Petitioner & Respondents side witness & Documents: NIL

**PRINCIPAL DISTRICT JUDGE,
TIRUVALLUR**