

**BEFORE THE PRINCIPAL DISTRICT COURT
VELLORE DISTRICT**

Present: Thiru.M.Elavarasan.
Principal District Judge

Tuesday, the 12th day of August, 2025

I.A.No. 02 of 2024
in
Ele.O.P. No. 159 of 2022

G.V. Devendiran

. . . Petitioner

-vs-

1. K.Vijayabalan
2. K. Ramasamy
3. G. Venkatesan
4. Assistant Returning Officer,
Block Development Office,
Vellore Panchayat Union, Vellore
5. District Collector/Returning Officer,
Collectorate, Sathuvachari,
Vellore – 632 009
6. Election Commissioner,
O/o. Tamil Nadu Election Commission,
Vadapalani, Chennai – 600 026
7. Home Secretary,
Govt. of Tamil Nadu,
Fort St., George, Chennai – 632 009.

. . . Respondents

This petition was coming before me on 07.08.2025 for hearing
in the presence of Thiru S. Babu, counsel for the petitioner and, of

Thiru M.L.Jambukumar, counsel for the respondents 1 and 2 and, Thiru. V.Natanasigamani, Government Pleader for the respondents 4 to 7 and, the 3rd respondent was called absent and set *exparte* on 19.12.2024 and upon hearing the enquiry of both sides and, upon perusing the relevant records, this court passes the following:-

O R D E R

Petition filed under Order 9 Rule 9 and Sec. 151 of C.P.C to *set aside* the order which was dismissed for default on 05.07.2024 and to restore the main Election O.P.

2. Brief facts from the affidavit of the petitioner is as that the above OP was posted on 05.07.2024, the petitioner's counsel was arrived little later since he went to hospital, despite the petitioner's presence, the above case was dismissed for default, since the petitioner was not ready to proceed with the case. The petitioner has good chance in the case, hence in the interest of justice the above OP may be restored by setting aside the order of dismissal dated 05.07.2024 otherwise the petitioner would be put to irreparable loss and hardship. Hence, this application.

3. Brief facts from the counter of the 1st respondent, adopted by the 2nd respondent, is as that all the allegations averred in the petition is denied except those that are specifically admitted herein. Order 9 Rule 9 and Sec.151 of C.P.C is applicable only for restoration of the Civil Suits which were dismissed for default and not for original petitions. But the above matter is not applicable for the election petitions. In the Election Panchayat Act, no proviso laid down for restoration of the Election OP which was dismissed for default. Since no proviso is introduced in the related Election Act, the petitioner cannot take advantage of proviso laid down in the Civil Procedure Code. If the petitioner is having valid defence to state he might have been filed petition immediately after dismissal for default on 05.07.2024 and the petitioner need not wait for 6 months to bring the petition to file. The same itself proves that the petitioner is not having valid defence in the above OP. Therefore, the present application is not maintainable in law and the same is liable to be dismissed.

4. The learned Government Pleader for respondents No.4 to 7 made an endorsement that as “No Counter”.

5. Heard both sides. Perused the material records. Considered the submission raised by both sides.

6. The point for consideration is as to whether the petition to restore the main OP, which was dismissed for default on 05.07.2024 is to be allowed or not?

7. The learned Counsel for the petitioner contended that the case was posted for enquiry on 05.07.2024 and on that day the petitioner's counsel was arrived little later, since he went to hospital, despite the petitioner's presence, the above case was dismissed for default and hence the petitioner prays to allow the petition and to restore the main OP. On the other hand, the learned counsel for the respondents No. 1 & 2 contended that for restoration of Election O.P., the petitioner cannot take advantage of proviso laid down in the Civil Procedure Code and only to drag on the proceedings, the present petition is filed and prays to dismiss the petition.

8. The main Election O.P. is filed for the election already conducted on 09.10.2021 is to be declared as Null and Void and for ordering re-election and the said main OP was dismissed for default on 05.07.2024, since the petitioner's counsel attended the court little

later, since he went to hospital for his illness. On perusal of notes paper, it seems that several opportunities were given to the petitioner which was not utilized by the petitioner side. Even though, there is no medical records produced before this court to prove the illness of petitioner's counsel, this court feels that one more opportunity to be given to the petitioner for proper adjudication and to avoid multiplicity of proceedings and also in the interest of justice, this petition is allowed.

9. In the result

- (i). This petition is allowed; and
- (ii). No cost.

Dictated to the Steno-typist, transcribed and computerized by her, corrected and pronounced by me in the Open Court, on this day the 12th day of August, 2025.

Principal District Judge
Vellore District

Annexures :- NIL

P D J
Vlr