

IN THE COURT OF ADDITIONAL DISTRICT & SESSIONS JUDGE,
(FAST TRACK COURT)
KANNIYAKUMARI AT NAGERCOIL.

Present: **Thiru .S. Giri, B.Sc., M.L.,**
Additional District Judge.

Tuesday, the 25th day of November, 2025.

I.A.No.06/2025 in O.S.No.134/2018

1. V.Christal Sobana Shanthi (Died)

Addl.2. Veerapandian Selva Kumar

Addl.3.Prince Raja Singh

Addl.4.Binu Livingston

...Petitioners/2,3,4 Proposed Plaintiffs

(Impleaded as per order in I.A.No.2/24
dated 22.03.2024)

. Vs.

1. Joel Jeya Singh

2. Vijiyalatha

... Respondents/Defendants.

This petition is coming on 21.11.2025 for final hearing before this court in the presence of Advocate Thiru. Jothi Nellai Kumar for the petitioners/2,3,4 Proposed Plaintiffs and the respondent Advocate Thiru.N.M.Sukumaran for the Respondents/Defendants and on perusal of documents, this court delivered the following

ORDER

This petition is filed by the Petitioners/2,3,4 Proposed Plaintiffs under Order 9, Rule 9 CPC., to restore the suit. This was dismissed for default on 28.04.2025.

2. Brief averments of the affidavit filed in support of petition:

The petitioner is the 1st petitioner herein and the 2nd proposed plaintiff in the main suit. The petitioner wife namely V.Christal Sobana Shanthi had filed the suit for partition and separate possession of her 1/3 share over the schedule properties described in the plaint. Pendency of this case, the petitioner wife had died on 30.09.2023 left the legal heirs himself and the sons of her who are 2nd and 3rd petitioners herein. Whereas after the death of the petitioner wife we have filed the petition to implead us 2 to 4 plaintiffs since the share of 1/3 of his wife goes to us. The said application was numbered as I.A.No.2/2024 and the same was allowed on 22.03.2024 and posted for steps to amend the plaint. So, we have filed the petition to take steps to amend plaint as stated in the amendment particular of this petition and the above said petition under Order 6 Rule 17 CPC was returned on 06.07.2024 due to some formal defects. Infact, Now we are residing at Tuticorin and we have not engaged local counsel to follow the case and due to the petitioner illness, the petitioner is unable to contact his Advocate. So, the amendment petition stated above cannot be represented with in time. So, on 28.04.2025 since we have failed to takes steps to amend the petition, the suit was dismissed for default. The default mistake not wantonly happened, only by act of god. So, for the reason stated above the suit may be restored. Unless this petition is allowed, we will be put to irreparable loss and hardship. Therefore it is just and necessary that this Court

may be pleased to pass an order to restore the suit which was dismissed for default on 28.04.2025 by this court in the interest of justice.

3. Counter filed by the side of the respondents:-

The petition is not maintainable. The petition is lacking in good faith or bonafides. There is no sustainable ground for restoring the suit to file. This Court dismissed the suit for default as sufficient time granted and no progress in the suit. All the allegations in the affidavit accompanying the petition are denied as false, mischievous, misleading and motivated. The petition is false, frivolous and vexatious. There is suppression of material facts. The petitioners have not come before this court with clean hands. The suit itself is false, frivolous and vexatious.

There is no cause of action to file the suit itself. The petitioners have no locus standi to file the petition. The petition is filed with an ulterior motive to drag on the matter and to harass the respondents. The suit itself is filed by way of gambling in litigation. The petition is unsustainable. In any view of the matter, the petition is liable to be dismissed in limine. Hence it is humbly prayed that this Court may be pleased to accept the counter and dismiss the petition with costs.

4. The point for consideration is whether this petition is liable to be allowed or not?

5. Findings:

6. Heard. Both sides.

The reasons stated in the affidavit are accepted. An opportunity should be given to the petitioner to prove his case. The petitioner stated in the affidavit that due to her illness she was unable to contact her advocate. So, the amendment petition was unable to be represented within time. On 28.04.2025 we have failed to take steps to amend the petition therefore the suit was dismissed for default. The default mistake was not wantonly happened. So, for the reason stated above the suit may be restored. As already stated above the reasons are accepted and to prove the case of the petitioner an opportunity should be given to the petitioner. Therefore this petition will be allowed on payment of costs of Rs.500/- to the respondent on or before 04.12.2025 failing which this petition stands dismissed. Call on 08.12.2025.

7. In the result, this petition will be allowed on payment of costs of Rs.500/- to the respondent on or before 04.12.2025 failing which this petition stands dismissed. Call on 08.12.2025.

Dictated to the Steno-typist and pronounced in open court this 25th day of November 2025, and computerized by her, corrected and signed by me.

Additional District Judge.
Nagercoil.

A.D. & S. Court,
Draft/Fair order in
I.A.No.6/2025 in
O.S.No.134/2018
dated 25.11.2025