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IN THE COURT OF DISTRICT MUNSIF, GUDIYATTAM,
VELLORE DISTRICT.

Present: **Tr.K.Karthick Asath, B.A.,B.L.,(Hons).,LLM.,**
District Munsif,
Gudiyattam.

Monday, this the 10th day of August 2026

I.A.04/2025
in
O.S.No.20/2023

V. Gangadharan

.... Petitioner/ Plaintiff

// Versus //

1. Sadhasivam
2. P.G.Sivagnanam
3. Kribanandham
4. Ravikumar
5. The Commissioner,
Gudiyattam Municipality,
Gudiyattam.

6. The Revenue Divisional Officer (RDO),
Gudiyattam.

.... Respondents/ Defendants

This petition came up on 22.07.2026 before me for final hearing in the presence of Thiru.K.Sridhar, Advocate for the petitioner and the petition against 2nd respondent is dismissed on 03.06.2026 and Thiru.K.Rajini, Advocate for the 3rd respondent and the respondents 1, 4 to 6 are set exparte on 30.06.2026 and upon perusing the case records and having stood over for consideration till this day this court delivered the following.

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ORDER

Petition filed under Order 9, Rule 9 and Section 151 of Code of Civil Procedure to restore the suit which was dismissed for default on 14.10.2025 and pass such other orders.

1. The averments of the petitioner in the application:-

The petitioner stated that he was suffering from jaundice and continuously taking treatment regarding the same and he was unable to commence trial in the above case on 14.10.2025 and he came to know about the dismissal and filed the petition to set aside the dismissal order.

2. The averments of the counter filed by the 3rd respondent:-

The respondent submit that the suit posted for trial on 14.10.2025 the petitioner was fully aware of the hearing date however he failed to appear before this court and failed to take steps to proceed the trial. The petitioner has not exercised due diligence in prosecuting the case. The petitioner never produce any proof for his contention. The petitioner was hale and healthy during the relevant period and was actively participating in various activities relating to the very same dispute. He strongly objected by stating the contact of the petitioner and pleaded to dismiss the petition with cost.

3. Both side enquiry heard.

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4. Point for consideration:-

Whether this application is liable to be allowed ?

5. Evidence:-

Neither of the parties to this application have adduced any oral or documentary evidence.

6. Discussion:-

On perusing the available records this court delineate and proceeds its findings based on the following discussion.

6.1. The petitioner is the plaintiff in the suit. The petitioner filed suit for permanent injunction against the respondents. The said suit posted from 16.11.2023 for trial but the petitioner side failed to commence the trial till 14.10.2025 hence the suit dismissed for default. In this circumstances the petitioner filed the present petition on 07.11.2025. The petitioner stated that he was suffering from jaundice and continuously taking treatment regarding the same and he was unable to commence trial in the above case on 14.10.2025 and he came to know about the dismissal and filed the petition to set aside the dismissal order.

6.2. Per contra the 3rd respondent filed counter stating that the suit posted for trial on 14.10.2025 the petitioner was fully aware of the hearing date however he failed to appear before this court and failed to take steps to proceed the trial. The petitioner has not exercised due diligence in prosecuting the case. The petitioner never produce any

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proof for his contention. The petitioner was hale and healthy during the relevant period and was actively participating in various activities relating to the very same dispute. He strongly objected by stating the contact of the petitioner and pleaded to dismiss the petition with cost.

6.3. On perusing the available records the suit OS.20/2023 is dismissed on default on 14.10.2025. The petitioner filed the present petition on 07.11.2025 to set aside the dismissal order. The petitioner stated that due to jaundice and medical treatment he was not commence the trial on 14.10.2025. But on perusing the records from 16.11.2023 the petitioner failed to commence the trial nearly 2 years. For proving the petition averments no medical records filed by the petitioner. The present petition for restoration is filed within one month from the date of dismissal of the suit. The immediate action taken by the petitioner revealed that he has interested to safeguard certain rights. The strong objection submitted by the 3rd respondent side is not proved that the plaintiff is healthy and actively participated other activities on 14.10.2025. The documents filed by the respondent are irrelevant to the present petition and it has to be marked and considered at the time of trial.

6.4. The reasons stated by the petitioner for his non appearance on 14.10.2025 is considered. This court thinks necessary opportunity should be given to parties to adjudicate the case on merit. There is no prejudice will be caused to the respondents while allowing this petition. But this court thinks cost to be imposed upon the petitioner for his negligent in

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follow up the case and failed to commence the trial from 16.11.2023. For avoid multiplicity of proceedings and on interest of justice this court inclined to allow this petition on cost.

7. Result :-

As a result, this petition is allowed on condition to pay cost Rs.1000/- to the 3rd respondent and also directed to pay cost Rs.1000/- to the District Legal Service Authority, Vellore within 7 days from today, Bench Clerk directed to restore the suit only after filing of cost memo.

Dictated to Steno typist directly, typed by him corrected and pronounced by me in the open Court on this the 10th day of August 2026.

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Gudiyattam.**

Petitioner side Witnesses and Exhibits :- Nil

Respondents side Witnesses and Exhibits :- Nil

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