

**IN THE COURT OF ADDL.DISTRICT JUDGE-II (SPECIAL)  
KOTTAYAM**

Present : Sri. J. Nazar,  
Addl. District Judge-II (Special), Kottayam.

**Friday, the 10<sup>th</sup> day of , June 2022.**  
20<sup>th</sup> day of Jayshta, 1944.

**I.A.No.1/2021, IA 2/2021 and IA 3/21 in A.S No.63/2018**

(O.S.No.470/14 of the Munsiff's Court, Changanacherry

**I.A.No.1/2021 in AS 63/2018**

**Petitioners/Appellants:-**

1. Georgekutty Joseph, S/o Joseph,  
Valiyaparambil house, Kurisumoodu P.O.,  
Chethipuzha Village, Changanacherry Taluk.  
(Died)
- 2 . Aliyamma George, Aged 65,  
W/o Georgekutty Joseph,  
Valiyaparambil House, Kurisumoodu P.O.,  
Chethipuzha Village, Changanacherry Taluk.  
( Addl. 2<sup>nd</sup> appellant)
3. Joseph George, Aged 42,  
S/o Georgekutty Joseph,  
Valiyaparambil House, Kurisumoodu P.O.,  
Chethipuzha Village, Changanacherry Taluk.  
( Addl. 3<sup>rd</sup> appellant)
4. Roby George, Aged 40,  
S/o Georgekutty Joseph  
Valiyaparambil House, Kurisumoodu P.O.,  
Chethipuzha Village, Changanacherry Taluk.  
(Addl. 4<sup>th</sup> appellant)

5. Rony George, Aged 47, S/o Georgekutty Joseph, Valiyaparambil House, Kurisumoodu P.O., Chethipuzha Village, Changancherry Taluk. (Addl. 5<sup>Th</sup> appellant)
6. Rani George, Aged 35, D/o Georgekutty Joseph Valiyaparambil House, Kurisumoodu P.O., Chethipuzha Village, Changancherry Taluk. (Addl. 6<sup>Th</sup> appellant)
7. Ruby George, aged 26, D/o Georgekutty Joseph, Valiyaparambil House, Kurisumoodu P.O., Chethipuzha Village, Changancherry Taluk, (Addl. 7<sup>Th</sup> appellant)

By Adv. Sri. K. Madhavan Pillai

**Counter Petitioners/ Respondents:-**

1. Rosamma Varghese, Aged 61 years, W/o Varghese, Padiyara House, Kurisumoodu Muri, Vazhappally East Village, Changanacherry Taluk.
2. Sabu Joseph, Aged 52 years, S/o Varghese, Kainikkara house, Veroor Muri, Chethipuzha Village, Changanacherry Taluk ( Died)

R1 & R2 by Adv. E.T. Mathew

**I.A.No.2/2021 in AS 63/2018**

**Petitioners/Appellants:-**

1. Georgekutty Joseph, S/o Joseph, Valiyaparambil house, Kurisumoodu P.O., Chethipuzha Village. Changanacherry Taluk. (Died)

2. Aliyamma George, Aged 65,  
W/o Georgekutty Joseph,  
Valiyaparambil House, Kurisumoodu P.O.,  
Chethipuzha Village, Changancherry Taluk.  
( Addl. 2<sup>Nd</sup> appellatant)
3. Joseph George, Aged 42,  
S/o Georgekutty Joseph,  
Valiyaparambil House, Kurisumoodu P.O.,  
Chethipuzha Village, Changancherry Taluk.  
( Addl.3<sup>rd</sup> appellatant)
4. Roby George, Aged 40,S/o Georgekutty Joseph,  
Valiyaparambil House, Kurisumoodu P.O.,  
Chethipuzha Village, Changancherry Taluk.  
( Addl. 4<sup>Th</sup> appellatant)
5. Rony George, Aged 47, S/o Georgekutty Joseph  
Valiyaparambil House, Kurisumoodu P.O.,  
Chethipuzha Village, Changancherry Taluk.  
( Addl. 5<sup>Th</sup> appellatant)
6. Rani George, Aged 35,D/o Georgekutty Joseph,  
Valiyaparambil House, Kurisumoodu P.O.,  
Chethipuzha Village, Changancherry Taluk.  
( Addl. 6<sup>Th</sup> appellatant)
7. Ruby George, aged 26,D/o Georgekutty Joseph,  
Valiyaparambil House, Kurisumoodu P.O.,  
Chethipuzha Village, Changancherry Taluk.  
( Addl. 7<sup>Th</sup> appellatant)

By Adv. Sri. K. Madhavan Pillai

**Counter Petitioners/Respondents:-**

1. Rosamma Varghese, Aged 61 years,  
W/o Varghese, Padiyara House,  
Kurisumoodu Muri, Vazhappally East Village,  
Changanacherry Taluk.

2. Sabu Joseph, Aged 52 years, S/o Varghese, Kainikkara house, Veroor Muri, Chethipuzha Village, Changanacherry Taluk (Died)

R1 & R2 by Adv. E.T. Mathew.

**I.A.No.3/2021 in AS 63/2018**

**Petitioners/Appellants:-**

1. Georgekutty Joseph, S/o Joseph, Valiyaparambil house, Kurisumooddu P.O., Chethipuzha Village, Changanacherry Taluk. (Died)
2. Aliyamma George, Aged 65, W/o Georgekutty Joseph, Valiyaparambil House, Kurisumoodu P.O., Chethipuzha Village, Changanacherry Taluk. ( Addl. 2<sup>Nd</sup> Appellant)
3. Joseph George, Aged 42, S/o Georgekutty Joseph, Valiyaparambil House, Kurisumoodu P.O., Chethipuzha Village, Changanacherry Taluk. ( Addl. 3<sup>Rd</sup> Appellant)
4. Roby George, Aged 40, S/o Georgekutty Joseph, Valiyaparambil House, Kurisumoodu P.O., Chethipuzha Village, Changanacherry Taluk. ( Addl. 4<sup>Th</sup> appellant)
5. Rony George, Aged 47, S/o Georgekutty Joseph, Valiyaparambil House, Kurisumoodu P.O., Chethipuzha Village, Changanacherry Taluk, ( Addl. 5<sup>Th</sup> appellant)

6. Rani George, Aged 35 years,  
D/o Georgekutty Joseph,  
Valiyaparambil House, Kurisumoodu P.O.,  
Chethipuzha Village, Changanacherry Taluk.  
(Addl. 6<sup>Th</sup> appellant)
  
7. Ruby George, aged 26 years,  
D/o Georgekutty Joseph,  
Valiyaparambil House, Kurisumoodu P.O.,  
Chethipuzha Village, Changanacherry Taluk.  
(Addl. 7<sup>Th</sup> appellant)

By Adv. Sri. K. Madhavan Pillai

**Counter Petitioners/Respondents:-**

1. Rosamma Varghese, Aged 61 years,  
W/o Varghese, Padiyara House,  
Kurisumoodu Muri, Vazhappally East Village,  
Changanacherry Taluk.
  
2. Sabu Joseph, Aged 52 years, S/o Varghese,  
Kainikkara house, Veroor Muri,  
Chethipuzha Village, Changanacherry Taluk  
( Died)

R1 & R2 by Adv. E.T. Mathew

These three petitions having been finally heard on 07.6.2022 and the court on the 10.06.2022 passed the following.

**COMMON ORDER**

These petitions are filed for impleading the legal heirs of the 2<sup>nd</sup> respondent/appellant by setting aside the abatement after condoning the delay.

**2.** The petitioners case in brief is as follows:- The petitioners are the appellants and during the pendency of this appeal, the 2<sup>nd</sup> respondent died and it was on 21.03.2021. Due to covid-19 restrictions in connection with covid pandemic out-break, they could not implead the legal heirs of 2<sup>nd</sup> respondent and hence there occurred delay and thereby the case against the 2<sup>nd</sup> respondent was abated and further there occurred delay in filing the said abatement. Hence the petitioner sought for impleading the legal heirs after setting aside the abatement and condoning the delay.

**3.** The first respondent filed objection, which is summarised as follows:- The petition is not allowable and is

liable to be dismissed. The fact of death of the 2<sup>nd</sup> respondent was intimated to the parties by filing memo dated 22.06.2021. So there is no reason for the delay occurred in connection with the filing of this petition and hence sought for dismissal of the petition.

4. Heard both sides.

5. The point that arises for determination is:

**Whether there is sufficient ground for impleading the legal heirs by setting aside the abatement after condoning the delay ?**

6. **The Point** :- These petitions are filed for impleading the legal heirs of the 2<sup>nd</sup> respondent after setting aside the abatement and condoning the delay. According to the petitioners, due to covid-19 restrictions in connection with covid pandemic out-break, they could not implead the legal heirs of 2<sup>nd</sup> respondent. The said prayer for impleading the in-laws by setting aside the abatement is challenged by

the counter petitioners. Now it is admitted that at the time of death of 2<sup>nd</sup> respondent, there was restriction in connection with covid-19. So it is just and proper to allow the petition.

In the result I.A. Nos.1, 2 & 3 of 2021 are allowed. Additional respondents 3 to 5 are impleaded as the legal heirs of the 2<sup>nd</sup> respondent by setting aside the abatement and condoning the delay.

*Dictated to the Confdl. Assistant, transcribed and typed by her, corrected by me and pronounced in the open Court on this the 10<sup>h</sup> day of June, 2022.*

Sd/-  
J.Nazar,  
Addl. District Judge -II (Spl.),  
Kottayam.

Appendix:-Nil

Id/-  
Addl.District Judge -II (Spl.)

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Typed By:  
Compared By:

Sd/-  
J.Nazar,  
Addl. District Judge -II (Spl.),  
Kottayam.

**COPY OF COMMONO R D E R**  
**I.A. Nos.1/21, 2/21 & 3/21 in**  
**A.S. No.63/2018**  
**Dated : 10.06.2022**

