

IN THE COURT OF THE DISTRICT MUNSIF, SULUR

Present : Tmt.M.Santhosham., B.Sc., B.L.,

District Munsif, Sulur

Thiruvalluvar year 2056 Visvvasu year, 31st day of Month of Aani

Tuesday the 15th day of July 2025

I.A.No.8/2025

in

OS.No.95/2018

1. Lakshmi @ Lakshmiammal (Died)

2. R.Saraswathy (Died)

3. Smt.Jothimani

...Petitioners/ Plaintiffs

4. N.Rajamani

5. R.Vinothkumar

6. R.Vidhya

...Petitioners 4 to 6/ proposed plaintiffs

4 to 6 legal representative of deceased

2nd plaintiff

/ Vs /

1. R.Subramanian

2. Selvamani

3. S.Suresh

...Respondents / Defendants

This petition is coming on this day for final hearing before me in the presence of Mr.N.Ramar, Advocate for the Petitioners and of Mr.M.Ganeshkumar, Advocate for the Respondents and upon hearing of both parties and upon perusing the records this Court delivered the following :

ORDER

Petition filed by the petitioners under section 5 of Limitation Act to condone the delay of 628 days from 23.06.2023 to till dated 14.03.2025 in taking steps to

implead the LR's of the deceased 2nd plaintiff R.Saraswathy.

1. The brief averments of the affidavit filed by the Petitioner as follows:-

1.1. The main suit for Permanent Injunction. The suit pending before this court. In the mean time the 2nd plaintiff had died on 24.01.2023. The 2nd plaintiff in the above case leaving behind the 4th to 6th petitioners who is her husband, son and daughter to succeed her estate. Now, the 4th to 6th petitioners are as a proposed 5th to 6th plaintiff in this case. Hence, the 4th petitioner have filed an application to implead himself and his son and his daughter R.Vinothkumar and R.Vidhya are the proposed party to be impleaded as 5th to 6th plaintiffs being the Legal Representative of the said deceased 2nd petitioner/ 2nd plaintiff.

1.2. The petition to implead the LR's of the deceased 2nd plaintiff ought to have been filed with 150 days of the death. But, the 4th petitioner unknown of the law and court procedures and further he under impression that the proceeding by the existing plaintiffs 5th to 6th are enough to arrive at a correct conclusion could not take efforts in time. There is a delay of 628 days from 23.06.2023 to till date 14.03.2025 in taking steps to implead LR's of the deceased 2nd plaintiff and the delay neither willful nor wanton and the same needs to condoned according to law. Hence, the petition is to be allowed.

2. The brief averments of counter statement filed by the Respondents as follows :

2.1. The petition is false, frivolous and unsustainable both in law and on facts of the case. The petitioners have filed to assign any bonafide reason for delay in filing the petition to implead the legal heirs of the deceased 2nd plaintiff. The petitioners were well known about the demise of the deceased 2nd plaintiff because of their carelessness and the negligence failed to take necessary steps to implead them to the above suit on time. This Court has already dismissed the above suit three times and it has been restored and the petitioners has come up with this

section 5 Limitation petition only to drag on the proceedings. Hence, the petition ought to be dismissed.

3. No Witnesses were examined on either side, and no documents were marked as exhibits.

4. Points for Consideration :-

Whether the petition under section 5 of Limitation Act to condone the delay of 628 days in taking steps to implead the LR's of the deceased 2nd plaintiff is to be allowed?

5. Points:-

5.1. The petition affidavit, counter and the enquiry of both parties were carefully considered. Heard the counsels for both the parties. The suit documents were carefully examined. The main suit is filed for Mandatory injunction. The 2nd plaintiff died on 24.01.2023 leaving behind the 4th to 6th petitioners who is her husband, son and daughter to succeed her estate. Now, the 4th to 6th petitioners are proposed party to impleaded as 5th to 6th plaintiffs being the Legal Representative of the said deceased 2nd petitioner/ 2nd plaintiff. There is a delay of 628 days taking steps to implead LR's of the deceased 2nd plaintiff.

5.2. On the side of the respondents objected that the petitioners were well known about the demise of the deceased 2nd plaintiff because of their carelessness and the negligence failed to take necessary steps to implead them to the suit on time. The petitioners has come up with this section 5 Limitation petition only to drag on the proceedings.

5.3. The main suit filed for Mandatory injunction. It is not disputed by the respondents that during the pendency of the suit the 2nd plaintiff died on

24.01.2023 and the legal heirs of deceased 2nd plaintiff is proposed 4th to 6th plaintiffs. In a suit for Mandatory injunction all the parties to be added as necessary parties to get binding judgment. Hence, this court thinks it is necessary to implead the parties as 4th to 6th plaintiffs. But the delay of 628 days in taking steps to implead the legal heirs of the deceased 2nd plaintiff is compensated by way of cost.

In the result this petition is to be allowed on payment of cost of Rs.1000/- to be paid to the Respondents/Defendants on or before 22.07.2025 on failure this petition stands dismissed automatically. For compliance Call on 22.07.2025.

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 15th day of July 2025.

Sd/M.Santhosham
District Munsif,
Sulur.

List of witnesses and documents on petitioners side:-

Nil

List of witnesses and documents on Respondent side:-

Nil

Sd/M.Santhosham
District Munsif,
Sulur.

Draft/ Fair Order

I.A.No.8/2025 in

O.S.No.95/2018

Dated : 15.07.2025

DMC, Sulur.