

**IN THE COURT OF THE DISTRICT MUNSIF, SULUR**

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

**District Munsif, Sulur**

Thiruvalluvar year 2056 Visvavasu year, 27<sup>th</sup> day of Masi

Wednesday the 11<sup>th</sup> day of March 2026

**E.A.No.3/2025**

**in**

**E.P.No.3/2021**

**O.S.No.132/2004**

M. Somasundaram

**... Petitioner/Decree Holder**

**/VS/**

1. V. Thiyagarajan

2. Rajamani (Died)

**... Respondents/ Judgment Debtors**

3. A. Sridharan

4. Kathir Selvan

5. Prabakaran

**... Respondents/Proposed Parties**

This petition is coming on this day for final hearing before me in the presence of Mr.S.Sabarinathan, Advocate for the Petitioner and Mr.S.R.Rajesh Kumar, Advocate for the 5<sup>th</sup> Respondent and the 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents are being called absent set exparte and the 2<sup>nd</sup> Respondent reported died and upon perusing the records, and this court made the following:

**ORDER**

This petition filed by the petitioner under order 22 Rule 4 and Section 151 of CPC to implead the proposed parties as 3 to 5 Respondents in the execution

petition in E.P.No.3/2021.

**1. The brief averments of the affidavit filed by the petitioner as follows:**

1.1. The petitioner/decreed holder filed the execution petition against the respondents/ judgment debtors herein. While pending of the execution petition 2<sup>nd</sup> respondent/ judgment debtor was died leaving behind the proposed party to succeed her estate. Therefore the petitioner/ decreed holder have to implead the proposed party as 3<sup>rd</sup> to 5<sup>th</sup> Respondents necessary one. Petitioner decreed holder have to file the impleading application within 90 days from the date of death as per Article 120 of Limitation Act. Due to ill health petitioner/ decreed holder could not contact his counsel to file the impleading petition within time. So there is a delay in filing petition to implead as legal heirs of deceased. Therefore, petitioner/decreed holder have to implead the proposed parties are 3 to 5 respondents necessary one.

1.2. Hence, petitioner/ decreed holder should be implead in the above execution petition for proper and final adjudication. Hence, petitioner/ decreed holder come forward with this application to implead as the 3 to 5 respondents in the main execution petition. Unless implead the proposed parties herein as the 3 to 5 respondents in the execution petition, petitioner/ decreed holder will be put to great loss much great hardship. Hence, the petition is to be allowed.

**2. The brief averments of Counter statement filed by the 5<sup>th</sup> Respondent as follows:**

2.1. The petition is false, frivolous and unsustainable in law and on facts. The impleadment petition filed by the petitioner/decreed-holder is absolutely without legal foundation, barred by settled principles of execution, and liable to be dismissed in limine. The petitioner seeks to implead the legal heirs of the deceased 2<sup>nd</sup> judgment-debtor in an execution petition filed under Order XXI Rule 32 CPC, which is a quasi-criminal proceeding seeking arrest, detention and punishment for alleged violation of a decree for permanent injunction. The law is unequivocal that

such proceedings do not survive the death of the judgment-debtor and cannot be continued against legal heirs who were not parties to the act complained of.

2.2. The underlying suit O.S.No.132/2004 was one purely for permanent injunction, and the decree dated 01.07.2011 simply restrained the defendants personally from interfering with the plaintiff's alleged possession. The decree did not relate to ownership, title, or any transmissible property right. The execution petition E.P.No.3/2021 was filed strictly "Against the 2<sup>nd</sup> respondent" under Order XXI Rule 32, seeking civil imprisonment for contempt of injunction. Thus, the very nature of the relief sought by the petitioner is punitive and personal, directed only at the deceased 2<sup>nd</sup> respondent.

2.3. After the death of the 2<sup>nd</sup> respondent, the entire execution petition automatically abated, because no quasi-criminal liability, no allegation of wilful disobedience, and no punitive consequence can ever survive the death of the alleged contemnor. That injunction decrees are generally personal and do not bind legal heirs unless they continue the wrongful act. Similarly, that a personal injunction decree comes to an end on the death of the defendant. Since the 2<sup>nd</sup> respondent is no more, the injunction decree as against 2<sup>nd</sup> respondent has come to an end, and the E.P. for contempt cannot survive.

2.4. The petitioner's attempt to invoke Order 22 Rule 4 CPC in execution is legally untenable. It is a settled principle that Order 22 applies only to suits and not to execution proceedings. The only provision governing substitution in execution is Section 50 CPC. Under Section 50 CPC, legal representatives can be brought on record only when the decree is executable against the estate of the deceased judgment-debtor. The decree herein is one of personal injunction, which is not executable against estate, property, or heirs. Therefore, Section 50 CPC does not permit impleading of heirs because the decree is not a money decree nor does it

impose any charge or liability on the estate.

2.5. Substitution of legal representatives is necessary only when the decree is enforceable against them or their estate. Applying this principle, a decree for personal injunction is not enforceable against the estate; thus, the legal representatives cannot be substituted. Further, the execution petition is one for civil imprisonment under Order XXI Rule 32 CPC, which is quasi-criminal in character. Arrest or punishment for contempt is entirely personal. No heir can be punished for the alleged disobedience of the deceased, a principle embodied in fundamental criminal jurisprudence. No penal liability can ever devolve on legal heirs. Hence, the E.P. terminates with the death of the 2<sup>nd</sup> respondent, and impleadment becomes legally impermissible.

2.6. The petitioner has also failed to state the date of death of the 2<sup>nd</sup> respondent. Even assuming for argument's sake that substitution were permissible (which it is not), Article 120 of the Limitation Act mandates substitution within 90 days. The petitioner has offered no reason, no document, no evidence, and no legally acceptable cause for delay. The bald plea of "ill health" is insufficient in law. When limitation has run, and proceedings have abated, they cannot be revived by invoking Section 151 CPC.

2.7. In summary, (i) the decree is personal, (ii) execution is quasi-criminal, (iii) Section 50 alone applies and does not permit impleading, (iv) injunction and contempt proceedings end with the death of the judgment-debtor, and (v) no allegation is made against the proposed heirs. Therefore, the impleadment petition is wholly unsustainable. 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 order 22 Rule 4 and Section 151 of CPC to implead the proposed parties as 3 to 5 Respondents 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 Execution petition documents were carefully examined. The Execution petition filed for commit respondents/judgment debtors to civil prison for such violation of the decree of the court.

5.2. Petitioner stated that, the 2<sup>nd</sup> respondent/ judgment debtor was died leaving behind the proposed party to succeed her estate. Therefore the petitioner/ decree holder have to implead the proposed party as 3<sup>rd</sup> to 5<sup>th</sup> Respondents necessary one. The respondent objected that, After the death of the 2<sup>nd</sup> respondent, the entire execution petition automatically abated, because no quasi-criminal liability, no allegation of wilful disobedience, and no punitive consequence can ever survive the death of the alleged contemnor. That injunction decrees are generally personal and do not bind legal heirs unless they continue the wrongful act.

5.3. The Execution Petition filed for commit respondents/judgment debtors to civil prison for such violation of the decree of the court. Since the 2<sup>nd</sup> respondent is a woman, the Execution Petition filed seeking the issuance of an arrest warrant against woman is not maintainable. It is not appropriate to implead his legal heirs as parties in this petition. Therefore, it is not necessary to implead the legal heirs of the deceased 2<sup>nd</sup> respondent on record in this petition. Further it is not appropriate to dismissed the above petition solely on the ground that the legal provision quotel is in correct. Hence, this petition is not maintainable.

*In the result, this petition is dismissed. No cost.*

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 11<sup>th</sup> day of March 2026.

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  
E.A.No.3/2025 in  
E.P.No.3/2021 in  
O.S.No.132/2004  
Dated:11.03.2026  
DMC, Sulur