

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

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

**District Munsif, Sulur**

Thiruvalluvar year 2056 Visvavasu year, 1<sup>st</sup> day of Month of Puratasi

Wednesday the 17<sup>th</sup> day of September 2025

**I.A.8/2025**

**in**

**O.S.17/2022**

1. N.Vasudevan

S/o.Narayanasamy.

**... Petitioner/Plaintiff**

2. V. Sampath Kumar

3. V. Sathya Narayanan

**...Petitioner/ 2<sup>nd</sup> and 3<sup>rd</sup> Plaintiff**

**Legal heirs of the Deceased Plaintiff**

/Vs/

M.Sakthivel

S/o.Madhivanan

**...Respondent/ Defendant**

This petition is coming on this day for final hearing before me in the presence of Mrs. S. Rajapriya Venkatraman, Advocate for Petitioners and the Respondent being called absent set exparte and upon perusing the records, and this court made the following:

**ORDER**

This petition filed by the petitioners under Section 5 of Limitation Act R/W O 22 R 9(3) of CPC to condone the delay occurred of 280 days in filing the application to set aside the abetment caused due to the death of the plaintiff.

**1. The brief averments made in the petition filed by the Petitioners as follows:**

1.1. The proposed parties, namely V. Sampath Kumar and V. Sathya Narayanan are the sons and legal heirs of the deceased plaintiff. The plaintiff Mr.

Vasudevan, had filed the above suit for bare injunction, which is presently pending before this court. During the pendency of the suit, the plaintiff unfortunately passed away on 13.06.2024. Upon obtaining the death certificate and legal heirship certificate from the appropriate government authorities, the 2<sup>nd</sup> petitioner has promptly approached this court to bring the legal heirs on record.

1.2. The deceased plaintiff has left behind only his sons namely V. Sampath Kumar and V. Sathya Narayanan. As per the information available, there are no other legal heirs or representatives of the deceased plaintiff. The steps to implead the legal heirs of the deceased plaintiff ought to have been taken on or before 10.09.2024. However, due to the time taken to obtain the official certificates of death and legal heirship from the concerned departments, there has been a delay of 280 days in filing the present petition. The delay is neither willful nor wanton but purely due to circumstances beyond petitioners control.

1.3. Unless the legal heirs of the deceased plaintiff are brought on record and the delay in filing the substitution petition is condoned, the petitioners would suffer irreparable loss and hardship, and the suit cannot be proceeded with on merits. Hence, the petition is to be allowed.

2. The Respondent was not filed their counter and called absent set exparte on 01.09.2025.

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

#### **4. Points for Consideration:-**

Whether the petition under Section 5 of Limitation Act R/W O 22 R 9(3) of CPC to condone the delay occurred of 280 days in filing the application to set aside the abatement caused due to the death of the plaintiff is to be allowed?

## **5. Discussion:-**

5.1. The petition affidavit and the enquiry of Petitioners side were carefully considered. Heard the counsel for Petitioner side, the case documents were examined. The Original suit was filed seeking for the relief of Permanent injunction.

5.2. The Petitioners stated that during the pendency of the suit, the plaintiff unfortunately passed away on 13.06.2024. The deceased plaintiff has left behind only his sons the 2<sup>nd</sup> and 3<sup>rd</sup> petitioners namely V. Sampath Kumar and V. Sathya Narayanan as his legal heirs and there are no other legal heirs or representatives of the deceased plaintiff. The steps to implead the legal heirs of the deceased plaintiff ought to have been taken on or before 10.09.2024. However, due to the time taken to obtain the official certificates of death and legal heirship from the concerned departments, there has been a delay of 280 days in filing the present petition.

5.3. On perusal of records the the sole plaintiff died on 13.06.2024 leaving behind his sons namely V. Sampath Kumar, V. Sathya Narayana as his legal heirs. The main suit is for title suit of permanent injunction. The sole plaintiff also died. Hence, to decide the case only on the merits and not otherwise. Hence, this court is of the view that in the interest of justice decided to allow this petition. But the delay should be compensated by way of cost.

***In the result this petition is to be allowed on payment of cost of Rs. 500/- to be paid to the District Legal Service Authority on or before 24.09.2025 on failure this petition stands dismissed automatically. For compliance Call on 24.09.2025.***

Dictated to the Steno-typist and directly typed by her in computer, corrected and pronounced by me in open court this the 17<sup>th</sup> day of September 2025.

Sd/M.Santhosham  
District Munsif,  
Sulur.

List of witnesses and documents on petitioners side:- - Nil

List of witnesses and documents on Respondents side:- - Nil

Sd/M.Santhosham  
**District Munsif,  
Sulur.**

Draft/ Fair Order  
I.A.No.8/2025 in  
O.S.No.17/2022  
Dated: 17.09.2025  
DMC, Sulur