

**THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
ANNUR.**

PRESENT: Tmt.V.Monika, B.A., B.L., L.L.M.,
District Munsif cum Judicial Magistrate, Annur.

On this Wednesday, the 17th day of September, 2025.

I.A.No. 11/2024
in
O.S.No. 138/2024
(CNR.No. TNCB21-001185-2024)

1. Sarasammal (Died)	Petitioner/Plaintiff
2. S.Mani	
3. A.Sundaramani	
4. A.Shanmugam	
5. A.Thangavel	 Petitioners/Proposed Parties

//Versus//

1. Selvaraj	
2. Kamalam	 Respondents/Defendants 1 & 2

This petition is coming on today for final hearing before this court in the presence of Thiru.P.Devisaravanan, Learned Counsel for the Petitioners/Proposed Parties and Thiru.A.M.Selvaraj, Learned Counsel for the Respondents/Defendants and upon perusal

of material records and having stood over for consideration till this date, this court passed the following:

ORDER

This petition has been filed by the Petitioners/Proposed Parties under section 5 of Limitation Act for the purpose of condone the delay of 911 days in filing the petition to implead the proposed parties as defendants 2 to 5 and thus render justice.

2. Brief averments in the Affidavit:

a. The petitioners/proposed parties are the legal heirs of Sarasammal, who died on 17.09.2019 and they are entitled to continue the suit. There was delay of 911 days in filing the petition to implead the legal heirs of the deceased plaintiff in the suit. They were not able to contact their counsel due to Covid – 19, unable to give instructions and details for filing impleading petition to implead proposed parties. The petitioners/proposed parties said that the right title and interest over the suit properties devolves upon them. The delay was neither wanton nor willful and it was beyond their control. Hence the petitioner/proposed parties prayed to condone the delay of 911 days in filing impleading petition to implead the proposed parties as plaintiffs 2 to 5 in the suit and render justice.

3. Brief averments in the Counter statement filed by the Respondents 1 & 2 :

The petition is false, frivolous, unsustainable in both law and merits of the petition. This petitioners are liable to prove all the averments mentioned in this petition, except those that are specifically admitted herein. The petitioners purposely drag on the proceedings of the court for more than 911 days. The reason stated in this affidavit is not bonafide. After covid-19 period this petitioners filed this application with false reasons. The petitioners filed false suit for permanent injunction against the respondents. The petitioners falsely stated that they have right to sue against this respondents. They have no title or interest over the entire suit property. They wantonly and willfully delayed the petition for more than 911 days. The delay calculate by the petitioners is not correct. There is no truth or merit in this affidavit. The respondents prayed to dismiss the petition and render justice.

4. The respondents 3 to 6 were set exparte, they did not filed any counter.

5. Points for Consideration:

Whether this petition under Section 5 of Limitation Act should be allowed and the delay to implead the petitioners as legal representatives of the sole petitioner is to be condoned?

Discussion and Decision:

6. Both sides heard. The records available are perused. This main suit was filed for the relief of bare injunction by the sole plaintiff Sarasammal against the respondents/defendants. While the suit is pending for the written statement of the defendants, the sole plaintiff was died. So the petitioners, who are the legal heirs/legal representatives of the sole plaintiff has come forward with the present petition to condone the delay of about 911 days in filing the petition to set aside the abatement of the suit/petition due to demise of the plaintiff. The respondents objected to this petition by stating that the reasons stated in the petition are not bonafide and so prays to dismiss the petition with exemplary costs.

7. On perusal of the petition, it is stated that the sole plaintiff/petitioner was died on 17.09.2019 and no dispute arose over the date of death of the plaintiff. The petitioners ought to have file the petitions to implead themselves and to set aside the abatement caused, within the period of limitation. But due to failure in doing the same, the petition was filed to condone the delay of about 911 days in filing the petition to set aside the abatement.

8. While considering the period of limitation and days of delay after the death of sole plaintiffs, this Court finds that the limitation period stayed by the Hon'ble Supreme

Court of India in Suo Motto Writ Petition in 3/2020 due to the spread of COVID – 19 was not considered. By the order of above case, the Hon'ble Apex Court stayed the limitations from 15.03.2020 till 28.02.2022 and all the petitions has to be filed within 90 days from 01.03.2022. In the present case on hand, the date of death of the plaintiff is 17.09.2019 and this petition was filed on 13.10.2022. When the limitation stayed as stated above is considered, the period of delay is considerably reduced and it is around 320 days. If the delay is not condoned, the petitioners are deprived of the opportunity to submit their case before this trial court and which might leave to multiplicity of proceedings. In order to provide the fair opportunity to the petitioners to submit their case before this trial court, in order to attain finality in the proceedings and considering all the above, this Court hereby allows the petition on condition that the petitioner has to pay a cost of Rs.750/- to the respondents 1, 2 on or before 09/10/2025, failing which further orders will be passed. For Cost compliance 09/10/2025.

Dictated to steno-typist, directly typed by her in the official desktop, corrected and pronounced by me in the open court on this 17th day of September, 2025.

Sd/- V.Monika
District Munsif cum Judicial Magistrate,
Annur.

Both side Exhibits marked: - NIL -

Sd/- V.Monika
District Munsif cum Judicial Magistrate,
Annur.

Draft/Fair Order
I.A. No. 11/2024 in
O.S. No. 138/2024.
Dated :17.09.2025.
DM cum JM, Annur.

**THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
ANNUR.**

PRESENT: Tmt.V.Monika, B.A., B.L., L.L.M.,
District Munsif cum Judicial Magistrate, Annur.

On this Wednesday, the 17th day of September, 2025.

I.A.No. 11/2024
in
O.S.No. 138/2024
(CNR.No. TNCB21-001185-2024)

- | | |
|--|-----------------------------------|
| 1. Sarasammal (Died) W/o. Arumuga Gounder | ... Petitioner/Plaintiff |
| 2. S.Mani (61) W/o. Subbaiyan,
Chekkan Thottam, Ganapathipudur,
Ganapathi Post, Coimbatore. | |
| 3. A.Sundaramani (58), W/o. S.Aruchamy,
D.No.311, 3 rd Street extension, Gandhipuram, Coimbatore. | |
| 4. A.Shanmugam (53), S/o. Arumuga Gounder,
4/100E, Ganeshapuram, Kattampatty Village, Annur. | |
| 5. A.Thangavel (48), Arumuga Gounder,
4/2173, Ganeshapuram, Kattampatty Village, Annur. Petitioners/Proposed Parties | |
| //Versus// | |
| 1. Selvaraj (45), S/o. R.Kandasamy,
Sennappa Chetty Pudur, Karumathampatty via, Coimbatore. | |
| 2. Kamalam (62), W/o. K.A.Shanmugham, Kemmanaickenpalayam,
Karegoundenpalayam, Annur Taluk. | Respondents/Defendants 1 & 2 |

This petition has been filed by the Petitioners/Proposed Parties under section 5 of Limitation Act for the purpose of condone the delay of 911 days in filing the petition to implead the proposed parties as defendants 2 to 5 and thus render justice.

Date of petition : 13.10.2022.

This petition is coming on today for final hearing before this court in the presence of Thiru.P.Devisaravanan, Learned Counsel for the Petitioners/Proposed Parties and Thiru.A.M.Selvaraj, Learned Counsel for the Respondents/Defendants and upon perusal of material records and having stood over for consideration till this date and this court doth order and final order as follows:

This petition is allowed on condition that the petitioner has to pay a cost of Rs.750/- to the respondent 1,2 on or before 09.10.2025, failing which further orders will be passed. For cost compliance 09.10.2025.

Memo of Cost

- Both side cost list not filed -

Description of Property

- Nil -

Given under my hand and the seal of this court, this the 17th day of September, 2025.

Sd/- V.Monika
District Munsif cum Judicial Magistrate,
Annur.

Final Order in :

I.A. No. 11/2024 in
O.S. No. 138/2024.
Dated :17.09.2025.
DM cum JM, Annur.