

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF, CHIDAMBARAM

Present: Selvi.S.Padmavathi, M.L.,
Principal District Munsif,
Chidambaram.

Friday, the 10th day of April, 2026

IA.11/2026 in OS.35/2018

1. Jeeva
2. Jayasundar
(Rep. Py Guardian/Next Friend
Saravanan)

...Petitioners/1, 2 Plaintiffs

//Vs//

1. Sheshammal
2. Balasundar
3. Radha
4. Anandi
5. Jayanthi
6. Rajasekar

...Respondents/1 to 6 Defendants

This petition came before me on 27.03.2026 for final hearing in the presence of the Learned Advocate Thiru.A.Sambandam for Petitioners/1, 2 Plaintiffs and the Learned Advocate Thiru.N.Sethuraman for Respondents/1 to 4 Defendants and 5, 6 Defendants Exparte in suit on perusal of the records and upon hearing both sides, this court delivers the following.

ORDER

This Petition is filed by the Petitioners/Plaintiffs under section Order 32 Rule 3, 4 of C.P.C.

2. The Brief averments of the Petition filed by Petitioners/Plaintiffs are as follows:-

It is stated that, Suit is filed against D1 to D6 for relief of Declaration and Permanent Injunction. IA.173/2025 was allowed dt.09.10.2025 to received Additional Written Statement in which statement it is mentioned that P2 Jayasundar is insane, Mentally retarded and guardian needs to be appointed. But, hiding true details additional written statement was filed. At the date of filing the this suit, P2 was sane for past two months only he was affected mentally and so guardian needs to be appointed for P2. The Parents of P2 died. The Petitioner and other siblings were residing out of station. The proposed guardian Saravanan is the Son of Petitioner's father's younger brother and P2 has been in care and maintenance of Saravanan and Saravanan also taking care of giving treatment for P2 for Mental disease. No person is fit to be guardian for P2 other than Saravanan. Hence, prays to appoint Saravanan as guardian for P2.

3. The brief averments of the Counter filed by 3rd Respondent and adopted by 1, 3, 4 Respondents are as follows: -

The petition is false, frivolous, vexatious and liable to be dismissed. The respondent denied the averments in petition except expressly admitting facts.

It is stated that, the Petition filed by the Petitioner u/O 32 R 3,4 CPC is not legally maintainable in law and on facts. P2 is an unsound mind, and insane on the date of suit and that Subsequent to that, there is no documentary evidence to show that when P2 became insane. According to this respondent, P2 was insane on the date

of suit that cannot be cured by way of filing amendment petition. There is no documentary evidence to show that proposed Guardian assisting P2. The residence of P2 in the plaint is entirely different and he is not living with the next friend Saravanan. It is contested that, the suit was instituted in the year 2018 and Appointment of guardian Petition is filed in the year November 2025 to fill up the lacuna and that the petition was filed without any proof. Jeeva, the first Plaintiff did not depose that P2 was under care and custody of Saravanan. She deposed, she did not meet P2 immediately after the institution of the suit and it is nowhere stated in the affidavit whether natural guardian is alive.

It is further stated that, there is no prima facie case in favour of Petitioner. Hence prays the dismissal of the Petition with Cost.

4. Petitioner marked ExP1 and the Respondent has neither placed any oral nor documentary evidence before this court.

5. Now it is to decide whether this petition is fit to be allowed or not?

6. Point for discussion:-

Records perused. Heard both sides. Suit is filed against D1 to D6 for relief of Declaration and Permanent Injunction.

6.1) It is stated in petition that, IA.173/2025 was allowed dt.09.10.2025 to receive Additional Written Statement in which statement, it is mentioned that P2 Jayasundar is insane and Mentally retarded and so guardian needs to be appointed. It is contested that, hiding true details additional written statement was filed and that, at

the date of filing the this suit, P2 was sane only and for past two months only, he was affected mentally and so guardian needs to be appointed for P2. As the Parents of P2 died and as the Petitioner and other siblings were residing out of station, the proposed guardian Saravanan who is the Son of Petitioner's father's younger brother taking care and maintenance of Saravanan and also giving treatment for P2 for Mental disease and that no other person is fit to be guardian for P2 .

6.2)For which ,it is contested that, the petition is highly belated and P2 is an unsound mind and insane on the date of suit and objected, no documentary evidence exists to show that when P2 became insane after filing of suit recently. No evidence to show that proposed Guardian assisting P2 and the residence of P2 in the plaint is entirely different and he is not living with the next friend Saravanan. Jeeva/P1 did not depose that P2 was under care and custody of Saravanan and she deposed, she did not meet P2 immediately after the institution of the suit .

6.3)On considering both side rival submissions, it is known that defendant/respondent stated in additional written statement that P2 is insane for which, petitioner filed the petition admitting that P2 is mentally disturbed and not fully mentally good, but contested only that, P2 is like that,only for past 2months and marked ExP1 ,the prescription by Psychiatrist for P2 which shows there is some sort of mental illness to be cured and P2 is under medication for a while ,but ExP1 is not proof for P2 is insane. This court is of view that, as both sides admitted that P2 is mentally sick and ExP1 shows there is mental illness, this court thinks fit ,

appointment of guardian for P2 is necessary for time being only for conducting the suit and this court didn't come to conclusion that P2 is insane. Only on the basis of admission by either party that appointment of guardian is necessary for P2, this court convince to appoint guardian Saravanan for P2 only for the purpose of conducting the suit and no others in the interest of Justice. For reasons stated supra , this court convinces to appoint Guardian Saravanan for P2.

7) In the result, the Petition is allowed. No Cost.

Dictated to the steno typist, typed by her in computer, corrected and pronounced by me in the open court this the 10th day of April, 2026.

(Sd/-S.Padmavathi)
Principal District Munsif,
Chidambaram.

List of witnesses on the side of Petitioner: NIL

List of exhibits on the side of Petitioner:

Ex.P1	10.03.2026	Medical prescription
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List of witnesses on the side of Respondent: NIL

List of exhibits on the side of Respondent: NIL

(Sd/-S.Padmavathi)
Principal District Munsif,
Chidambaram.

Fair/draft order

IA.No.11/2026

in

O.S.No.35/2018

Date:10.04.2026