

**IN THE COURT OF SUBORDINATE JUDGE,
MADURANTAKAM.**

**Present: Mr. T. GANESH, B.A., B.L.,
Subordinate Judge,
Madurantakam**

Wednesday, this 4th day of June 2025

**I.A.No. 1/2025
in
O.S.No. 31/2016**

1. Mangathaiammal (Died)
2. C. Elumalai

...Petitioner/Proposed Plaintiff

..Vs..

1. The State of Tamil Nadu

Rep.by its

District Collector,

Chengalpattu District.

2. The Revenue Divisional Officer,

Madurantakam.

3. The Thasildar,

Taluk Office,

Madurantakam.

4. N. Rajamanickam

5. Meganathan

6. Tahmizhselvam

7. Venugopal

8. Yasodha

...Respondents/Defendants

This petition coming up for final hearing on 22.04.2025 in the presence of Mr.R.E.Charles, counsel for the petitioner/proposed plaintiff, Mr.R.Rajasekar, counsel for respondents/defendants 4 to 8, after hearing the arguments on both sides and upon perusing the records, having stood over for the consideration of this court till date, this court delivered the following:

ORDER

This petition is filed by the petitioner under Section 5 of Limitation Act, to condone the delay of 319 days in impleading the 2nd petitioner as 2nd plaintiff in the suit as legal heir of deceased Mangathalammal alias Mangathai, the plaintiff.

2. Averments of the petitioners:

Petitioner is the proposed plaintiff in the above suit. Petitioner's mother, Mangathal Ammal, originally filed the suit for declaration and permanent injunction. She died on 11.10.2023, leaving behind her only son namely, the petitioner herein as her sole legal heir. Petitioner was already acting as the power of attorney for the original plaintiff in the above suit. In view of the demise of the original plaintiff, the petitioner now seeks to be impleaded as plaintiff in his independent capacity to prosecute the above suit. No prejudice would be caused to the respondents by allowing this application, especially in light of the fact that the original plaintiff passed away on 11.10.2023. Consequently, the suit has abated due to the non-substitution of legal heirs within the prescribed time. There is a delay of 319 days in filing the application to set aside the abatement and to bring the legal heir of the deceased Mangathai, wife of Chinnappa, on record.

Hence, this application is filed to condone the delay of 319 days in filing the application to implead the petitioner as legal heir of the deceased sold plaintiff.

3. Counter of the Respondent in brief:

The respondent denies the allegations set out in the affidavit. The averments in the petition filed by the petitioner/proposed plaintiff seeking impleadment as plaintiff in the above suit and to continue the proceedings are denied as false and baseless. The petitioner's allegations that there is an abatement and that a delay of 262 days is to be condoned are specifically denied. The present petition is a vexatious one, filed only to protract the proceedings.

The provision of law invoked by the petitioner for impleading the legal heir of the deceased Mangathai Ammal is incorrect and misconceived. The delay of 262 days in filing the application to set aside the abatement has not been explained with any bona fide or sufficient reason. The petitioner has failed to offer any acceptable cause for the said delay, and hence the application is liable to be dismissed on that ground alone.

Moreover, the petitioner/proposed plaintiff has not filed the legal heirship certificate along with the present petition, though a reference to the same has been made in the affidavit. The affidavit and petition have not been filed properly and do not disclose any valid cause of action. The petitioner has not established his claim as the legal heir of the deceased Mangathai Ammal. Hence, the respondent prays for dismissal of the application.

4. Heard both sides and perused the records.

5. Point:

“Whether this application can be allowed?”

The petitioner seeks to condone the delay of 319 days in filing the application to implead himself as legal heirs of deceased sole plaintiff. Respondent defends that there is no reasons set out for the said delay.

Upon considering the submissions and materials, the death of Mangathai Ammal is not in dispute, and the legal heirship certificate is now placed on record. It is pertinent to note that the petitioner had been actively involved in the suit as power of attorney. If it so, he should file the application to implead himself in time. As rightly pointed out by the respondents there is no single reason set out in the affidavit for the delay. This shows the lethargic attitude of the petitioner. Anyhow no serious prejudice would be caused to the respondents, if the delay can be condoned to meet the ends of justice. So, there is no bar to allow this application. But for lethargic attitude for assigning the reasons for the delay this court inclined to allow this application on heavy costs. Hence this point is decided accordingly.

6. Result:

In the result this application is allowed on conditions that the petitioner shall pay a sum of Rs.2000.00 (Rupees Two Thousand) only to the respondent 4 to 8 on or before 10.06.2025. call on 11.06.2025.

Directly typed in my personal lap-top, corrected and pronounced by me in the open court, this 04th day of June 2025.

Subordinate Judge,
Madurantakam.

I. Petitioner side evidence and Exhibits : Nil.

II. Respondents side Evidence and Exhibits : Nil.

Subordinate Judge,
Madurantakam.

FAIR/DRAFT ORDER
I.A No. 1/2025
IN
O.S No. 31/2016
D.O.D: 04.06.2025
SUB COURT,
MADURANTAKAM

I.A.1/2025 in O.S.No.31/2016 dated 04.06.2025 Aft, Sub Judge, Madurantakam