

IN THE COURT OF ADDITIONAL DISTRICT JUDGE, DINDIGUL

Present : Thiru.Swarnam J.Rajagopalan, B.A.B.L.,(Hons.)

Additional District Judge, Dindigul

Monday, dated this the 17th day of August 2026.

I.A.No.11/2026 in OS. No.44/2017

S.Sujatha,

through its Power agent Subramaniam

... Petitioner/ Plaintiff

-Vs-

1.K.P.R.S.J. Premasekaran

2.K.P.R.S.J. Jeya Baskaran

3. Jeeva Reka

4. Latha Rajan

5. J.Sarojini Ammal

6. Eswaramoorthi

7. Durairaj

8. Manokaran

9. K.N.Thangavelan

10. K.Palanisamy

11. G.Ganesan (died)

12. R.Venkadesh

13. Muthukumar

14. K.Krishnasami

15. Balasubramaniam

...1 to 15 Respondents/ Defendants

16. Angammal

17. Sasikala

18. Sanjiv (minor)

19. Sutharshana (minor) ...16 to 19 Respondents/ Formal parties

This petition came up for final hearing on 17.08.2026 before me in the presence of Thiru.P.Jeganathan, Advocate for the petitioner/Plaintiff, Thiru. A.Kalyana Sundaram Advocate for the R1, R2, R5 and Thiru. R.Ragupathy, Advocate for R6, R8 and R11 died and R3,R4, R7, R9, R10, R12 to R19 set ex-parte and upon perusal of case records and having stood over consideration of this court till this date and this court this day delivered the following:

ORDER

This petition has been filed by the petitioner/plaintiff under Section 5 of the Limitation Act, 1963, seeking to condone the delay of 1690 days in filing the petition to set aside the abatement caused in the above suit consequent upon the death of the 11th defendant, and to consequently permit the said application to be taken on file.

2. Brief averments of the petition

The brief averments of the petition are as follows:

- i. The petitioner/plaintiff submits that the 11th defendant died on 27.01.2021. The persons arrayed as respondents 16 to 19 in the present petition are the legal representatives of the deceased 11th defendant and are sought to be brought on record.
- ii. It is further submitted that, upon the death of the 11th defendant, the legal representatives ought to have been brought on record within the prescribed period of

90 days. As no such application was filed within the said period, the suit stood abated insofar as the deceased 11th defendant was concerned. Thereafter, the petition to set aside the abatement was also required to be filed within the prescribed period of limitation.

iii. The petitioner submits that, owing to the circumstances stated in the petition, the application to set aside the abatement could not be filed within the prescribed period, resulting in a delay of 1690 days. The petitioner has therefore filed the present petition seeking condonation of the said delay.

iv. The petitioner would further submit that the respondents have no valid or reasonable objection to the petition being allowed. It is contended that, if the delay is not condoned, the petitioner would be put to serious hardship, irreparable loss and prejudice, whereas no comparable prejudice would be caused to the respondents if the delay is condoned.

v. It is therefore prayed that this Court may be pleased to condone the delay of 1690 days in filing the petition to set aside the abatement caused by the death of the 11th defendant in the suit and consequently permit the said application to be taken on file.

3. Submissions regarding the respondents

It is stated in the petition that the learned counsel appearing for respondents 12, 14, 6 to 8 and 15, as well as the learned counsel appearing for respondents 1, 2 and 5, have

no objection to allowing the petition, subject to appropriate conditions being imposed by this court.

Respondents 3, 4, 7, 9, 10 and 12 to 19, though called, have failed to appear before this Court and, hence, they have been set ex parte.

The 11th defendant having died, the remaining respondents, though called, have also failed to appear before this Court and have accordingly been set ex parte.

4. Point for Determination

The following point arises for consideration in this petition:

“Whether the petitioner has shown sufficient cause for condoning the delay of 1690 days in filing the petition to set aside the abatement?”

5. Discussion

The petitioner seeks condonation of a substantial delay of 1690 days in filing the petition to set aside the abatement caused by the death of the 11th defendant. The factum of death of the 11th defendant on 27.01.2021 is not in dispute. It is also evident that the petitioner has taken steps to bring the legal representatives of the deceased 11th defendant on record.

6. It is true that the delay involved is considerable. However, while considering an application under Section 5 of the Limitation Act, the Court is required to examine whether the petitioner has shown sufficient cause for not approaching the Court

within the prescribed period. The expression “sufficient cause” has to receive a liberal and justice-oriented interpretation, particularly where the delay is not shown to be deliberate, wilful or actuated by mala fides. At the same time, the length of the delay is certainly a relevant circumstance and cannot be completely ignored.

7. In the present case, the respondents who are represented before this Court have submitted that they have no objection to the petition being allowed, subject to appropriate conditions. The remaining respondents have remained absent despite service and have been set ex parte. No material has been placed before this Court to establish that the petitioner has deliberately or wantonly allowed the proceedings to lapse, or that the delay was occasioned by any mala fide intention. Likewise, no material has been placed before this Court to demonstrate that condonation of the delay would cause such irreparable prejudice to the respondents as cannot be adequately compensated by imposing appropriate terms.

8. It is also relevant to note that the dispute in the suit is yet to be adjudicated on its merits. If the delay is not condoned, the petitioner would be deprived of an opportunity to prosecute the suit against the legal representatives of the deceased 11th defendant, whereas condonation of the delay would facilitate adjudication of the dispute on its merits. The procedural lapse arising out of the delay ought not, in the circumstances of the present case, to defeat the adjudication of the substantive rights of the parties.

9. Having regard to the nature of the proceedings, the absence of any serious objection from the contesting respondents, the fact that the remaining respondents have been set ex parte, and the absence of any material indicating deliberate or mala fide delay, this Court is of the considered view that the petitioner has shown sufficient cause warranting exercise of the discretion under Section 5 of the Limitation Act. Nevertheless, considering the inordinate delay of 1690 days, the petitioner is liable to be put on terms so as to balance the equities between the parties.

Accordingly, the point for determination is answered in favour of the petitioner.

10. Result

In the result, this petition is allowed, subject to the following condition:

The petitioner is directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) as costs to the respondents on or before 01.09.2026. In the event of the petitioner failing to pay the said amount within the time stipulated above, this petition shall stand dismissed automatically without any further reference to the Court.

Call on 01.09.2026 for reporting compliance.

Dictated by me to the Stenographer, transcribed and typer by her, corrected and pronounced by me in Open Court on this the 17th day of August 2026.

**Additional District Judge,
Dindigul.**

Petitioner side witness and exhibit : Nil

**Additional District Judge,
Dindigul.**