

IN THE COURT OF DISTRICT MUNSIF, HARUR

Present: Tmt. SRI MATHURA S, LL.M.,

DISTRICT MUNSIF, HARUR

Friday, 31st day of October 2025

I.A.No: 03/2025

In

O.S.No: 06/2019

1.Dhayanithi

2.Arunarani

...petitioners/Proposed parties

Ramu (died)

. . .Plaintiff

-Vs-

1.Dhanammal

2.Selvi

3.Chithra

4.Raja

5.Poongodi

6.Revathi

7.Gomathi

. . .Respondents/ 1 to 7 defendants

This interlocutory application came for final hearing on 23.10.2025 before me in the presence of Adv. Mr.P.Kirubakaran, B.Sc., B.L., for petitioners/proposed parties and Adv.Mrs.B.Ezhil, for the Respondents/defendants. Upon perusing available material records and on hearing both sides and having stood over consideration till this date, the court delivers the following.

ORDER

This interlocutory petition was filed by the petitioners/proposed parties under **ORDER 22 RULE 3 r/w SECTION 151 OF C.P.C** to implead the petitioners/proposed parties as plaintiffs No: 2 and 3 of this suit and pass such other suitable order as deem fit under the circumstances of the above suit and thus render justice.

I) The Contention of the Petitioner/1st Proposed party in brief :

1.1) The petitioner/proposed party humbly submits that he is the petitioner herein and the son of the deceased Ramu, the plaintiff in the main suit. He is arrayed as the 1st proposed party in the above petition, and his sister is the 2nd proposed party.

1.2) The petitioner/proposed party humbly submits that his father, the deceased Ramu, passed away on 26.09.2023. Due to his demise, it has become necessary to implead the petitioners/proposed parties as plaintiffs in the main suit so that they may continue the proceedings and protect their rights in the suit property.

1.3) The petitioner/proposed party humbly submits that the respondents/defendants 1 to 7 are his brothers and sisters, being the legal heirs of Ramu through his first wife, late Saroja. The petitioners/proposed parties are the children of Ramu through his second wife. The said respondents are already parties to the main suit as defendants.

1.4) The petitioner/proposed party humbly submits that the suit property originally belonged to his father, the deceased Ramu, who acquired it from his own earnings, though it was registered in the name of his first wife, Saroja. Taking advantage of this, the respondents/defendants 1 to 7 fraudulently created two documents in respect of the same property one as a settlement deed and another as a will deed. Hence, the deceased Ramu filed the present suit seeking cancellation of the said documents as null and void. Since he has passed away, it is necessary to include the petitioners/proposed parties as plaintiffs in the main suit to continue the case.

1.5) The petitioner/proposed party humbly submits that they ought to have filed a petition on or before 26.12.2023 to implead themselves as legal heirs within 90 days from the date of death of their father on 26.09.2023. However, due to ignorance and lack of legal knowledge, the petition could not be filed within the prescribed time. Hence, a delay of 465 days has occurred, which was neither willful nor wanton.

1.6) The petitioner/proposed party humbly submits that it is just and necessary to condone the delay of 465 days in filing the petition to implead the petitioners as plaintiffs in the main suit. Otherwise, the petitioners would suffer irreparable loss and hardship, and proper justice would be denied to them.

II) The Contention of the Respondents/Defendants in brief :

2.1) The respondent respectfully submits that the present petition filed by the petitioner/defendant is false and devoid of merit. Except for what is specifically admitted herein, all other averments made by the petitioner are denied, and the burden of proof lies entirely on the petitioner.

2.2)The respondent humbly submits that he is the 1st defendant in O.S. No. 6/2019 filed by the 1st plaintiff. The said case has been pending before this Hon'ble Court

for more than six years. The present petition has been filed only with the intention of deliberately delaying the proceedings.

2.3) The respondent humbly submits that the property in dispute is the personal property of the respondent's deceased mother, Saroja, which she purchased out of her own savings and with parental assistance. As per the provisions of the Hindu Succession Act, no one has any right to claim or interfere with the property standing in the name of a woman. Hence, the case itself is not maintainable. Further, the respondent's deceased mother, Saroja, of her own free will and without any compulsion, executed a settlement deed in favour of the respondents.

2.4) The respondent humbly submits that the plaintiff had bequeathed all his properties to his second wife and her heirs and had completely neglected his first wife, Saroja. The said Saroja suffered from breast cancer for more than five years prior to her death, during which period the plaintiff did not take any care or responsibility towards her. The deceased Saroja had executed a valid settlement deed in favour of all her heirs respondents 1 to 7 and therefore, there is no necessity to implead the proposed parties as plaintiffs in the main suit. Moreover, as per law, an application to bring legal heirs on record should have been filed within 90 days from the date of the plaintiff's death, i.e., on or before 26.01.2024 and relied on State of Gujarat Vs Sayed Mohd.Baquir El Edross dated 1.9.1981 of Hon'ble Gujarat High Court.

2.5) The respondent humbly submits that in the present case, there is a delay of 491 days, and the reasons assigned, such as ignorance, are baseless and untenable. The petition is therefore barred by limitation and is liable to be dismissed. The respondent further submits that the suit filed by the 1st defendant against the plaintiff has been pending since 2018 before the Hon'ble Sub Court, Harur, and the counsel for the

plaintiff has been regularly appearing in that case. Hence, the plea of ignorance and delay cannot be accepted. The respondent therefore most respectfully prays that this Hon'ble Court may be pleased to dismiss the petition as not maintainable and barred by limitation.

III) Points for Consideration :

Whether the petitioners are entitled to relief as prayed for ?

IV) Discussion :

4.1) Upon careful consideration of the submissions made by both sides and the available material records, this Court observes that the present petition has been filed by the petitioners/proposed parties under Order 22 Rule 3 read with Section 151 of the Code of Civil Procedure. The petitioners seek to be impleaded as plaintiff Nos. 2 and 3, claiming to be the legal heirs of the deceased plaintiff, Ramu.

4.2) No oral or documentary evidence has been adduced by either party in support of or in opposition to the petition.

4.3) It is, however, seen from the petition that the applicants are the children of the deceased plaintiff Ramu. Although the respondent has objected to the petition on the ground that no substantive documents have been filed to establish legal heirship, the Court is of the considered view that, in the interest of justice and to ensure effective adjudication of the dispute, the presence of the proposed parties is necessary. The absence of formal documents alone cannot defeat the claim, especially in the absence of any rival heirship claim or contrary material on record. Since the right to sue survives, and as the petitioners claim to be the legal representatives of the deceased plaintiff, their impleadment is essential for a fair and complete adjudication of the matter.

4.4) Accordingly, this Court holds that the petitioners are proper and necessary parties to the suit, and their impleadment will not prejudice the rights of the respondents but rather advance the cause of justice. Hence, this petition is allowed.

No order as to costs.

V) Decision:

In Result,

This petition in I.A.No: 03/2025 is allowed subject to I.A.No: 2/2025. No orders as to cost.

Dictated to the Steno-Typist, typed by her in computer,
corrected and pronounced by me in open Court,
on the 31st day of October, 2025

DISTRICT MUNSIF, HARUR

Annexure

Petitioner side Evidence and Exhibits: Nil

Respondent side Evidence and Exhibits: Nil

DISTRICT MUNSIF, HARUR

Fair order

I.A.No: 03/2025

In

O.S.No: 06/2019

31.10.2025