

**IN THE COURT OF THE PRINCIPAL DISTRICT MUNSIF,
NAGERCOIL.**

Present : Tmt. M.Alima, B.A., L.L.M.,
Principal District Munsif, Nagercoil.
Friday, on the 24th day of January, 2025.

**I.A. Nos.15 of 2024 &
I.A.No.16 of 2024 & I.A.No.17 of 2024 in
O.S.No.93 of 2015**

1.S. Esakki (Died)

Addl. 2. E. Jaya

Addl.3. E. Subhashini

Addl.4. E. Suriya

... Petitioners / Plaintiffs

-vs-

1. Rajammal (Died)

2. S. Bala Subramanian

3. Swamikannu

4. Shanmuganathan

5. C. Muthuswamy

6. V. Geetha

7. M. Suresh Kumar

8. V. Sudha

9. S. Devendran

10. S. Kalyana Sundari

11. D. Nagam

12. D. Pappa

13. S. Sudaiyandi

... Respondents / Defendants /
Proposed Respondents 13

These petitions came before this court on 09.01.2025 for a final hearing in the presence of Mr. SA. Kanagasabapathi Advocate for the Petitioners/Plaintiffs, and in the presence of Mr. N. Perumal Pillai Advocate for the 2 to 13 Respondents/defendants endorsed 'no counter' and 1st Petitioner and 1st Respondent died and upon hearing both sides, perusing the case records, and having stood over for consideration till this day, this court hereby delivers the following:

COMMON ORDER

Prayer in I.A. No. 15 of 2024:

The petitioners have filed the above petition under Section 5 of the Indian Limitation Act and Section 151 of the Code of Civil Procedure, seeking to condone the delay of 299 days and set-aside the abatement in the interest of justice.

Prayer in I.A. No. 16 of 2024:

The petitioner have filed the above petition Under Order XXII Rule 9, and Section 151 of the Code of Civil Procedure seeking to setaside the a abatement arose in the sujit in the interest of justice.

Prayer in I.A. No. 17 of 2024:

The petitioner have filed the above petition Order XXII Rule 4(2) and Section 151 of the Code of Civil Procedure, seeking to allow the impleading petition to implead the proposed party as additional 13th defendant in the suit in the interest of justice.

2) **Gist of Averments in the Petitioners/Plaintiffs Petitions :**

The Petitioner is the 4th Plaintiff representing all the plaintiffs/petitioners herein. The petitioners have filed the suit for declaration that the impugned documents are null and void and for permanent injunction. On 28.02.2024, the defendants Advocate Mr. Perumal Pillai had filed a memo stating that the 1st defendant Rajammal died on 26.11.2023. The memo has been filed by the defendants side after the expiry of three months. This court has ordered to file steps on 20.03.2024 in lieu of the death of 1st defendant. On 28.02.2024 only the plaintiff side has gained knowledge regarding the demise of 1st defendant. Already Rajammals Legal heirs have been impleaded as Defendants 2 to 4 in the suit, except her husband Sudalaiyandi. Sudalaiyandi is also one of the legal heir of 1st defendant late. Rajammal. We have no knowledge regarding the death of 1st defendant at once. Now, the petitioners learnt that the 1st defendant died on 28.02.2024. So, the stipulated time is lapsed and hence the abatement arises. The proposed additional 13th defendant is a necessary and proper party for the just adjudication of all issues in this case. The formal delay comes about 299

days. If the delay condone petition is not allowed, and restore the suit on file, the petitioner will be put to irreparable loss and injury and that cannot be compensated by any means. Under the circumstances it is just and necessary that this court to to allow the impleading petition to implead the proposed party as additional 13rd defendant in the suit to condone the delay of 299 days and set-aside the abatement in the interest of justice. Hence, these petitions are to be allowed.

3) The Respondents Counsel endorsed “No Counter” in this petition.

4) The point for consideration is whether the above petitions have to be allowed or not.

5) Point:

6) Heard both sides. Records perused. On perusal of records, the petitioners/plaintiffs have filed the above suit against the respondents/defendants for declaration and permanent injunction.

7) These petitions are only to implead the legal heirs of the deceased 1st defendant husband Sudalaiyandi (13th defendant). After knowledge of these petitions, the respondents endorsed 'no counter' on their side. If there were any dispute among the legal heirs of the deceased 1st defendant, the above mentioned respondents would have filed any objections of these petitions.

8) In these circumstances, this court has concluded that, in order to come to a proper conclusion regarding the suit issue, the legal heirs of the deceased 1st Respondent/1st defendant are necessary parties. Moreover, if these petitions are allowed, no prejudice will be caused to the respondents. Hence, to avoid multiplicity of proceedings and for proper adjudication of the suit in the interest of justice, this court is inclined to allow these petitions.

9) As a result,

I.A. No. 15 of 2024

This petition is allowed, without cost.

I.A. No. 16 of 2024

This petition is allowed, without cost.

I.A. No. 17 of 2024

This petition is allowed, without cost.

Dictated to the Steno-Typist, and typed by her directly in the Computer, corrected and pronounced by me, in open court this, the 24th day of January 2025.

Principal District Munsif
Nagercoil.

Petitioners side witnesses and documents : Nil.

Respondents side witnesses and documents : Nil.

Principal District Munsif
Nagercoil.

Draft/Fair Order
I.A.No. 15/2024.& I.A.No. 16/2024 &
I.A.No.17/2024 in
O.S.No.93/2015
Date: 24.01.2025

