

**IN THE COURT OF THE I ADDITIONAL DISTRICT MUNSIF,  
NAGERCOIL.**

**Present: Thiru. R. Sundara Kamesh Marthandan, M.L.,**  
I Additional District Munsif, Nagercoil.

Monday, on the 25<sup>th</sup> day of November, 2024.

**I.A. No. 7 of 2023**

**in**

**O.S. No. 132 of 2021**

**CNR.No. TNKK04-000152-2021**

Janet Baby

... Petitioner/Plaintiff

-vs -

1. Marialoyans(died)

2.Felix Selvaraj (died)

3. Falfeenammal

4. Thainesimuthu

6. Maria Arputham

7. Sahaya Princly

8. Celine Mary

9. Jasmine Benitta

10. Judo Benil

... Respondents/Defendants

This Petition came before this Court on 11.11.2024 for final hearing.  
Mr.G.Sivakumar, Learned Counsel for the Petitioner and Mr. Samuel Edwin, Learned  
Counsel for the Respondents 2 to 5 and 8 to 10. Mr. Lawarance Petershaw, Learned

Counsel for Proposed 12<sup>th</sup> Defendant. 1<sup>st</sup> Respondent died. 11<sup>th</sup> Respondent was set exparte. Upon hearing the Arguments of both sides and Upon perusing the case records and having stood over till date for Consideration, this Court hereby delivers the following:

### **ORDER**

1. The Petitioner has filed the above Petition Under Order XXII Rule 4 Code of Civil Procedure, seeking an order to implead the Legal Representatives of the deceased 1<sup>st</sup> Defendant as Additional Defendants 11 & 12.

2. The Petitioner had stated that he had filed the above Suit for Permanent Injunction. The 1<sup>st</sup> Defendant had died on 1.01.2022, the said fact came to the Petitioner's Knowledge on 18.04.2022, hence on the same day, the Petitioner had filed Memo. The deceased 1<sup>st</sup> Defendant has left his son Shaya Lessly Loyans and daughter Jaya Violet Rani as his Legal Heirs. They alone are his Legal Heirs and are enjoying the 1<sup>st</sup> Defendant's Property, they have to be impleaded as Additional Defendants 11 & 12. Hence the above Petition.

3. The Respondents 3, 4, 5, 8 to 10 have filed Counter, stating that the Petition is not maintainable in law and facts. The date of knowledge of the death of the 1<sup>st</sup> Defendant is not correct. There is no merit in the Petition. The Petition lacks bonafide Hence the Respondents 3,4,5, 8 to 10 have prayed for dismissal of the above Petition.

4. The Point for consideration is whether the above Petition has to be allowed or not?

5. The Petitioner had stated that the 1<sup>st</sup> Defendant had died on 1.01.2022 and the said fact came to the Petitioner's Knowledge on 18.04.2022. He had also stated that the deceased 1<sup>st</sup> Defendant has left son Shaya Lessly Loyans and daughter Jaya Violet Rani as his Legal Heirs and claimed that they have to be impleaded as Additional Defendants 11 & 12. The Respondents 3,4,5,8 to 10 have not denied the fact as to the death of the 1<sup>st</sup> Defendant or his Legal Representatives, they merely denied the date of Knowledge as to the death of the 1<sup>st</sup> Defendant. Since it is stated that the above suit has been filed seeking Permanent Injunction, the Right to Defend Survives, upon the death of the 1<sup>st</sup> Defendant. Hence the Petitioner is entitled for the Petition Relief.

In the result the above Petition is allowed. No Cost.

Dictated to the Steno-Typist, transcribed and typed by her in the Computer, corrected and pronounced by me, in open Court this, the 25<sup>th</sup> day of November, 2024.

Sd/-

I Additional District Munsif,  
Nagercoil.

**Petitioner's side witnesses & documents :** Nil.

**Respondents' side witnesses & documents :** Nil.

Sd/-

I Additional District Munsif,  
Nagercoil.

*I ADM Court, Nagercoil.  
Draft/Fair Order in  
I.A.No.7/2023 in  
O.S.No.132/2021  
Date:25.11.2024*