

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

**Present : Selvi. V. Sivaranjani, B.A., L.L.B.,**

II Additional District Munsif, Nagercoil

Thursday, on the 12<sup>th</sup> day of June, 2025

**I.A. No. 10 of 2024 in I.A.No.9 of 2024 &**

**I.A. No. 11 of 2024 in I.A.No.9 of 2024 &**

**I.A. No. 12 of 2024 in I.A.No.9 of 2024 in**

**O.S. No.117 of 2019**

**CNR No.TNKK04-000184-2019**

L. Anthony Jey Vendhan

... Petitioner / Plaintiff

-VS-

1. P. Thavamani (died)

2. The Sub Inspector, District Crime Branch,  
Kanniyakumari District.

3. The Superintendent of Police,  
Kanniyakumari District.

4. The District Collector,  
Kanniyakumari District.

Addl.5. Jabarson Binny

Addl.6. Vinila Evangeline

... Respondents /  
Defendants  
Addl. Defendants  
5 and 6

These Petitions came up before this Court on 11.06.2025, in the presence  
of Thiru. A. Gnana Sekar, Advocate for the Petitioner/Plaintiff and

Thiru. C. Johnson, Government Pleader for the 2<sup>nd</sup> to 4<sup>th</sup> Respondents / 2<sup>nd</sup> to 4<sup>th</sup> Defendants, counter not filed and 5<sup>th</sup> and 6<sup>th</sup> Respondents were set exparte in this petition 1<sup>st</sup> respondent is 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. 10 of 2024 in I.A.No.9 of 2024:**

The petitioner had filed the above petition Under Order XXII Rule 9 and Section 151 of the Code of Civil Procedure, seeking to setting aside the order of abatement of petition in above I.A.No.9 of 2024 as against the deceased 1<sup>st</sup> respondent.

**Prayer in I.A. No. 11 of 2024 in I.A.No.9 of 2024:**

The petitioner had filed the above petition under Section 5 of Indian Limitation Act and Section 151 of the Code of Civil Procedure, seeking to pass an order excusing and condoning the delay of 1204 days caused in filing the petition to implead the legal heirs of deceased 1<sup>st</sup> respondent in the party array to this petition in above I.A.No.9 of 2024.

**Prayer in I.A. No. 12 of 2024 in I.A.No.9 of 2024:**

The petitioner had filed the above petition Under Order XXII Rule 4 and Section 151 of the Code of Civil Procedure, seeking to pass an order impleading

the following legal heirs of deceased 1<sup>st</sup> respondent in the petition in above I.A.No. 9 of 2024 as additional Respondents 5 and 6 in the party array to this petition.

**Gist of Averments in the Petitioner / Plaintiff Petitions :**

2) The petitioner is the Plaintiff in this suit. The petitioner / plaintiff has filed this suit for permanent injunction restraining the respondents / defendants interfering with petitioner peaceful possession and enjoyment and other reliefs. In this case, the 1<sup>st</sup> respondent counsel stating that the defendant on 25.10.2021. The petitioner was out of town so, petitioner could not inform petitioner's advocate. In such circumstances despite the exercise of care and caution, the petition for impleading the legal heirs of deceased 1<sup>st</sup> respondent could not be filed in time and that a delay of 1204 days is caused in filing the impleading petition and as its result the petition in above I.A.No.9 of 2024 stands abated as against the deceased 1<sup>st</sup> respondent. The delay is neither wilful nor wanton. It has occurred under the above stated circumstances, which are neither willful nor wanton. The petitioner right to sue survives as against the legal heirs of 1<sup>st</sup> deceased respondent also.

3) Thus it is learnt that the 1<sup>st</sup> respondent in this petition namely P. Thavamani died on 25.10.2021, leaving behind his son and daughter, whose names and addresss are stated in the accompanying application, as his legal heirs. In order to delay petition in I.A.No.9 of 2024 and also for the purpose of

proper and effective adjudication of issues arising in the petition, the legal heirs of deceased 1<sup>st</sup> respondent have to be impleaded in the party array to this petition in I.A.No.9 of 2024 as additional respondents 5 and 6. Hence, it is humbly prayed this court to pass an order setting aside the order of abatement of petition in above I.A.No.9 of 2024 as against the deceased respondent and condoning the delay of 1204 days caused in filing the petition to implead the legal heirs of deceased 1<sup>st</sup> respondent in the party array to this petition in above I.A.No.9 of 2024 and impleading the legal heirs of deceased 1<sup>st</sup> respondent in the petition I.A.No.9 of 2024 as additional respondents 5 and 6 in the party array to this I.A.No.9 of 2024, otherwise, petitioner will be put into irreparable loss and injury. Hence, the Petitioner prayed before this court that these petitions are to be allowed.

4) The 2<sup>nd</sup> to 4<sup>th</sup> Respondents, counter not filed and 5<sup>th</sup> and 6<sup>th</sup> Respondents were set exparte in this petition.

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

6) Point:

7) Heard both sides. Records perused. On perusal of records, the petitioner / plaintiff had filed the above suit against the 1 to 4 respondents / 1 to 4 defendants for Permanent injunction.

8) These petitions are only to condone the 1204 days, set aside the abatement and to implead the legal heirs of the deceased 1<sup>st</sup> respondent / 1<sup>st</sup> defendant in I.A.No.9 of 2024. After knowledge of these petitions, 2<sup>nd</sup> to 4<sup>th</sup> respondents, counter not filed on their side. If there were any dispute among the legal heirs of the deceased 1<sup>st</sup> defendant, the above mentioned respondents would have filed any objections to this petition.

9) 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 1<sup>st</sup> 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 on conditional cost.

10) As a result,

**I.A. No. 10 of 2024 in I.A.No.9 of 2024:**

This petition is allowed, on the condition that the Petitioner shall pay a sum of Rs.500/- (Rupees Five Hundred only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 20.06.2025. otherwise, this petition would be dismissed. Call on 20.06.2025.

**I.A. No. 11 of 2024 in I.A.No.9 of 2024:**

This petition is allowed, on the condition that the Petitioner shall pay a sum of Rs.500/- (Rupees Five Hundred only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 20.06.2025. otherwise, this petition would be dismissed. Call on 20.06.2025.

**I.A. No. 12 of 2024 in I.A.No.9 of 2024:**

This petition is allowed, on the condition that the Petitioner shall pay a sum of Rs.500/- (Rupees Five Hundred only) payable to the Mediation and Conciliation Centre, Kanniyakumari at Nagercoil on or before 20.06.2025. otherwise, this petition would be dismissed. Call on 20.06.2025.

Dictated to the Steno-Typist directly, transcribed and typed by her in computer, corrected and pronounced by me in Open Court, this the 12<sup>th</sup> day of June, 2025.

II Additional District Munsif  
Nagercoil.

Petitioner side witness & Documents : Nil

Respondents side witness & Documents : Nil

II Additional District Munsif  
Nagercoil.

I.A. Nos. 10, 11, 12 of 2024 in  
I.A.No.9 of 2024 in  
O.S. No.117 of 2019  
Fair Order  
Date: 12.06.2025.  
II ADM Court, Nagercoil.