

**IN THE COURT OF THE SPECIAL COURT FOR FOREST OFFENCE
CASES, NAGERCOIL.**

**Present : Tmt. C. Kalaiyarasi Reena, M.L.,
Special Judge, Nagercoil.**

Tuesday, the 11th day of August, 2026.

I.A.No.3/2026

in

A.S.No.18/2025

CNR.No.TNKK05-000178-2026

1. Nirmala Samuel
2. Mary
3. Grace

.....Petitioners/Appellants/Plaintiffs

-Vs-

1. Jessy
2. Jeyapal (**died**)
3. Irine Wilfred Mohan
4. Wilfred Thambiraja (**died**)
5. Grasby Paul Jeyasekar
6. Asariadhas
7. Godwin Wesley
8. Dettus Raj
9. Nananey Bai @ Nancy Bai
10. Jen Suganthi Nataniel
11. Evangelin Joy
12. Rajulin
13. The District Collector, Kanniyakumari District.
14. Rita Wilfred (**Addl R14**)
15. Vinita (**Addl R15**)
16. Pravin Wilfred Thambiraja (**Addl R16**)

....Respondents/Defendants 2 to 16

This Petition having coming up for final hearing before me on 01.8.2026 in the presence of Thiru. Jeya Singh, Advocate for the Petitioners/Appellants and Thiru.Johnson, Advocate for the 3rd and 10th Respondents, 1st, 5th to 9th and 11th to 13th respondents remains exparte and 2nd and 4th respondents got died and upon perusing

the case records having stood over for consideration till this day, this court delivers the following

ORDER

This petition is filed by the Petitioners/appellants under Order 22 Rule 9 of C.P.C., to set aside the abatement to implead the legal heirs of deceased 4th respondent as 14th to 16th respondents in the appeal.

2. **The case of the Petitioners/Appellants in brief :**

The 2nd and 3rd petitioners are the 1st petitioner's sister. The petitioner filed the appeal against the decree and judgment in O.S.No.592/2010 dated 13.03.2024 of the II Additional District Munsif Court, Nagercoil. In the meantime, the 4th respondent/5th defendant Wilfred Thambiraja was died on 15.09.2025. This appeal was abated due to non filing of the impleading petition within the time because we could not find out the legal heirs of the deceased within the time. Hence, to file set-aside the abatement petition of impleading the legal heirs of the deceased 4th respondent.

3. **Brief Averments of the Counter Statement of 3rd and 10th respondents :**

The 4th respondent, Wilfred Thambiraja deceased on 15.09.2025 and the same was intimated to the court on 17.10.2025 by his counsel and this court also passed an order for taking steps to implead the legal heirs on 08.04.2026. The petitioner has willfully and wantonly delayed in filing the impleading petition, condone delay petition and petition to set aside abatement in time. It is not correct stating that, the petitioner did not get the details of the legal heirs of the deceased 4th respondent, even if she had any doubt, she could have very well filed a memo to that effect, demanding to furnish the details relating to the legal heirs of the deceased. The petitioner wanted

to set-aside abatement since the suit is already abated against the deceased 4th respondent, which is only because of the massive negligence and willful in activeness of the petitioner. Hence, the petition is liable to be dismissed with costs.

4. **Point for consideration:**

Whether the Petitioner/appellant is entitled for the relief of set-aside the abatement to implead the legal heirs of deceased 4th respondent as 14th to 16th respondents in the appeal ?

5. No Oral or Documentary Evidence let in on both sides. Both side contentions and case records carefully perused. Both sides heard. The petition has been filed by the Petitioner/appellant implead the legal heirs of deceased 4th respondent as 14th to 16th respondents in the appeal. The plea of the petitioner is that the 4th respondent/5th defendant Wilfred Thambiraja was died on 15.09.2025. This appeal was abated due to non filing of the impleading petition within the time because we could not find out the legal heirs of the deceased within the time.

6. **As per Order 22 Rule 9 :-** Effect of abatement or dismissal- (1) Where a suit abates or is dismissed under this Order, no fresh suit shall be brought on the same cause of action. The plaintiff or the person claiming to be the legal representative of a deceased plaintiff or the assignee or the receiver in the case of an insolvent plaintiff may apply for an order to set aside the abatement or dismissal, and if it is proved that he was prevented by any sufficient cause from continuing the suit, the court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

7. Considering that this petition has been filed on the basis that respondents 14 to 16 are the legal heirs of the deceased 4th respondent /5th defendant Wilfred Thambiraja acknowledging that respondents 14 to 16 are necessary parties to the suit, that the respondent has not denied in their counter that respondents 14 to 16 are the legal representatives of the deceased 4th respondent /5th defendant Wilfred Thambiraja and aiming to avoid unnecessary confusion, the defect of non-joinder of necessary parties, and a consequent multiplicity of proceedings, and further seeking to achieve a complete resolution of the original suit by impleading necessary parties, this court comes to the conclusion that in the interest of justice to allow the petition to set-aside the abatement to implead the proposed parties as 14th to 16th respondents in the appeal as legal heirs of deceased 4th respondent.

8. In the result, this petition is allowed. No Costs.

Dictated to the steno-typist and typed by her directly, corrected and pronounced by me in open court, this the 11th day of August, 2026.

Special Judge,
Nagercoil.

Appendix:-

Appellant side Exhibits – Nil

Respondent side Exhibits – Nil

Special Judge,
Nagercoil.