

IN THE COURT OF PRINCIPAL DISTRICT MUNSIF AT
KANCHIPURAM

PRESENT: Tmt. Fanny Rajan.B.A., B.L.,(Hons)
Principal District Munsif, Kanchipuram

On Wednesday, the 18th day of February 2026

E.A. No. 1 of 2025

in

E.P. No. 26 of 2020

CNR.No.TNKP08-000058-2019

1. Devaki (died)
2. Varadhan (died)
- 3.V. Senthilnathan
4. V. Thilagavathi
- 5.V. Raji
- 6.V. Kumar
- 7.V.Sudhakar

.... Petitioners/Plaintiffs/ Decree Holder

/Versus/

- 1.Seethalakshmi
- 2.Srinivasan
3. Panneerselvam
- 4.Senthamarai

.... Respondents/Defendants/Judgment Debtors

This Petition has come up on 21.01.2026 for final hearing before me in the presence of M/s.R. Sureshkumar, K.Arunagiri counsels for the Petitioners and M/s. G. Ravikumar counsel for the Respondents, upon hearing the argument and upon perusing the connected material records and having stood over till this day for consideration, this court delivers the following orders:

ORDER

1. The petitioner filed this petition under section 151 of CPC to reopen the above E.P.No.26/2020 in O.S.No.110/2006 for petitioners/ Plaintiffs side enquiry in the above EP and thus render justice.

Concise Statement of the averments in the affidavit filed by the 7th

Petitioner:-

2. The petitioner has averred that he has filed Execution Petition for delivery and possession in the suit property. The above case was posted for enquiry on 16.10.2025. As he was suffering from viral fever and he could not meet his counsel. Further, his counsel was engaged in another court and unable appear before this court on 16.10.2025. Subsequently, the above case was posted for orders without his side enquiry. Hence, it is just and necessary to file a petition to reopen for Petitioner's/Plaintiff's side enquiry in the above case. It is neither wilful nor wanton, Hence, this Petition.

Concise Statement of the averments in the counter filed by the 2nd

Respondent/3rd Judgment debtor and adopted by the 1st, 2nd and 4th

Respondent/Judgment debtor :

3. The respondents had denied the allegations and stated that the petition to reopen the above EP stating that the date of enquiry posted on 16.10.2025 is false. The date of filing the reopen petition is only on 28.10.2025 and the date of enquiry is mentioned in the affidavit is also false. As per the orders of this court dated 16.10.2025 the written memo was filed by the respondents/defendants/JD and as per the order of this court the petitioner/plaintiff/DH ought to have filed the reopen petition on or before 25.10.2025 because this court has passed a conditional order to file oral or written submissions by both sides on or before 25.10.2025 and posted for orders on 29.10.2025 and on behalf of the Judgment debtors a memo was filed on 23.10.2025 and hence, this petition filed to reopen the above EP No.26/2020 does not arise. Hence, the petition is liable to be dismissed with costs.

Points for consideration:

4. Whether this Petition under section 151 of CPC to reopen the above E.P.No.26/2020 in O.S.No.110/2006 for petitioners/ Plaintiffs side enquiry in the above EP has to be allowed or not?

Discussion and findings:

5. This Court considers the submissions of both the counsels and perused the materials on record. No ocular or documentary evidence has been let in by the Petitioners and Respondents.

6. On perusal of the records, it is found that the Petitioner side enquiry was closed on 16.10.2025 and reserved for orders on 29.10.2025 with liberty to make oral or written submissions on or before 25.10.2025. Whiles, this petition to reopen was filed on 28.10.2025 with an emergent petition.

7. It is pertinent to note that main contention of the learned counsel for the respondent relates to how the petition is maintainable when not filed before 25.10.2025. This court considers that it is true that liberty to make oral and written submissions were granted till 25.10.2025. The petitioner having failed to utilize the said opportunity had filed this petition before the date on which the orders were reserved. Hence, this court finds that the question of reopen arose only after 25.10.2025 and therefore there is no technical lapse in this petition filed on 28.10.2025 the date of orders.

8. In the instant case, the Learned Counsel for the Petitioner have specifically contended that as the Petitioner was ill, he could not be present and ready for enquiry on 16.10.2025. If the petition is proceeded without an opportunity of

being heard, he would be subjected to grave hardship. Hence, for the purpose of hearing the Petitioner, the EP has to be reopened. Per contra the learned counsel for the Respondent contends that the Petitioner failed to use all the opportunities available to him to advance enquiry and the EP is pending since 2020. As there is no merits in the EP the Petitioner is delaying the EP without proceeding. Hence, sufficient opportunity already granted and no reason to reopen.

9. This court is of the considered view that the reason stated though vague and not reasonable, the Hon'ble Apex Court and the Hon'ble Madras High Court in plethora of cases held that as long as no malafide or abuse of process is explicitly shown, the Courts may take a liberal approach in condoning the reasons for delay and provide an opportunity to the parties to contest their case on merits. In view of the above stated, this Court may adopt a liberal approach in the case of the Petitioners and examines if there is any deliberate negligence or delay in filing the document.

10. This court has considered the arguments of the Learned Counsel for the Respondent alleging that this Petition is filed to delay the proceedings. It is pertinent to note that despite the contention of dragging the proceedings, the said contention appears as a formal defense without any substantive facts except date of adjournment or evidence to establish the intention of dragging. It is true that

the Petitioner failed to advance the enquiry and there is a delay in filing this petition. However, the mere filing of the Petition at the hand with delay alone is not clearly sufficient to hold that the Petitioner deliberately, intentionally and malafide delayed filing this Petition especially when the Petitioner is the Decree Holder. Hence, the contention of the Learned Counsel for the Respondent on this behalf cannot be entertained, in the absence of an evident malafide intention through due evidence.

11. This Court considers that though the reasoning stated by the Petitioner that regarding non availability of the counsel and his illness is without any specific particulars regarding the efforts taken. As per the well established principle of law, the parties shall not suffer for the fault of the counsels and always endeavour shall be made to dispose cases on merits.

12. Upon perusal of the Petitioner's Affidavit and other material records, this Court finds that though there is a delay, it does not appear to be deliberate or intentional. Therefore, this Court considers it necessary to adopt a liberal approach as per the well established principle of law in respect of the vague reasoning by the Petitioners and this Court is inclined to reopen the enquiry to provide necessary opportunity to him to hear his side.

13. Though this court finds that though the Petitioner side enquiry shall be reopened, it is appropriate to consider if there is any inconvenience caused to the Respondent due to the filing of the instant petitions. This Court upon perusal of the records, notices that the instant Petition has been filed after the case was reserved for orders without availing the opportunity for making oral submissions.

14. This Court takes judicial note of the law laid down by the Hon'ble Supreme Court in *N. Balakrishnan v. M.Krishnamurthy [1998 (7) SCC 123]* that “*It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss.*”

15. From the above stated this court finds that an apparent inconvenience has been caused to the Respondent, due to the instant Petitions when the case is posted at the stage of defendant evidence. Considering the said fact, this court concludes that it is reasonable to order a sum of Rs.1000/- to be paid by the petitioners to respondent and be ready to make his enquiry on 25.02.2026.

RESULT:

16. In the result, this Petition is allowed and the side enquiry in E.P.No. 26 of 2020 is reopened, on the condition that the Petitioner shall pay a sum of **Rs.1000/- (Rupees One Thousand only)** to the respondent on or before 25.02.2026 and be ready for enquiry on 25.02.2026 and co-operate in the proceedings. Call on 25.02.2026.

Dictated to the steno typist partly, who directly typed the same in her Computer and partly typed by me, corrected and pronounced by me in open court, this the 18th day February 2026.

**PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM.**

Petitioner and Respondent side witness and document : NIL

**PRINCIPAL DISTRICT MUNSIF
KANCHEEPURAM.**