

**IN THE COURT OF ADDITIONAL DISTRICT MUNSIF, KULITHALAI**

**Present : Selvi.A.Yughathymariya, B.Com, L.L.B.(Hons.,)**

**Additional District Munsif, Kulithalai.**

**Dated Thursday the 17<sup>th</sup> day of July 2025**

**I.A No.08/2024 in O.S No. 86/2017**

Achutharaman, the Executive Officer

of Sakkalamman Temple and the Zamindar

**.....Petitioner/Plaintiff**

**/Vs/**

- 1) Thangavel Chettiyar (Died)
- 2) Akkaye Ammal
- 3) Lakshmi
- 4) Selvaraj
- 5) Kathirvel
- 6) Arumugam
- 7) Rajeswari
- 8) Navaneetham
- 9) Thasildar, Kulithalai
- 10) Revenue Divisional Officer, Kulithalai
- 11) The District Collector, Karur
- 12) Matheswari
- 13) Rajeswari

**.....Respondants/Defendants**

This petition has come up for final hearing on 07.07.2025 before this Court in the presence of Thiru.A. Jaffar Shat, the Learned Counsel appearing for the Petitioner and the Respondents No.1,8 were died and in the presence of Thiru.R.Krishnasamy, the Learned Counsel appearing for the Respondent No.2 to 7 and in the presence of Government Pleader Thiru. K.S.M. Sahul Hameed, the Learned Counsel appearing for

the Respondents No. 9 to 11 and the Respondents No.12, 13 are called an absent and set exparte upon perusal of material records and having stood over for consideration till this date, this court delivers the following:

**ORDER**

- 1) This petition is filed under Section 5 of the Limitation Act in order to condone the delay of 70 days in setting aside the abatement of the suit caused against the deceased 8<sup>th</sup> Defendant namely Navaneetham in the above suit.
- 2) R1, R8 were already died. R12,R13 were already set exparte.

**Brief averments in the affidavit are as follows:**

3) The Petitioner is the Plaintiff in the above suit and the Executive Officer of Sakkalamman Temple and is the Zamindar. The above suit was filed by this Petitioner/Plaintiff against the Respondents/Defendants for the relief of declaration and for the consequential relief of Permanent Injunction and Mandatory Injunction. When the above suit was pending on 10.04.2024, the 8<sup>th</sup> Defendant in the above suit namely Navaneetham was died. The legal heirs of the deceased 8<sup>th</sup> Defendant have to be impleaded in the above suit as Defendants No.14 to 17. But a delay of 70 days was happened in impleading those legal heirs. The delay caused is not an intentional one and it is forgivable one in the interest of justice. If this petition is not allowed, the Petitioner will be put to irreparable loss and hardships. Hence this petition to condone the delay in setting aside the abatement of the above suit caused against the deceased 8<sup>th</sup> Defendant.

**Brief averments in the counter objection filed by the Respondents No.2 to 7:**

4) This petition is not sustainable. The fact that the Petitioner is the Executive Officer of the above temple has to be proved by the Petitioner only. The averments stated in the paragraph No.4 of the affidavit of the Petitioner has to be proved by the

Petitioner only. The number of days of delay caused was not correctly stated in the petition. Hence, this petition is liable to be dismissed.

**Brief averments in the counter objection filed by the Respondents No.9 to 11:**

5) This petition is unsustainable in law and on facts and the Petitioner is not entitled to the relief sought for in this petition. All the allegations contained in the petition are hereby denied and they are to be proved by the Petitioner only. The legal heirships status of the persons who were alleged to be the legal heirs of the deceased 8<sup>th</sup> Defendant in the above suit, has to be proved by the Petitioner only. This petition has been filed with much delay and without stating any proper reason . This petition has no prima facie. Hence this petition is to be dismissed in limine.

**Evidence:**

6) No oral and documentary evidence were adduced on either sides.

**Points for Determination:**

7) Whether the delay caused in setting aside the abatement of the above suit against the deceased 8<sup>th</sup> Defendant is liable to be condoned?

**Discussion:**

8) Heard both sides. Perused records. It is seen clear that on 27.08.2024, a memo was filed stating that the Defendant No.8 namely Navaneetham was died on 10.04.2024 and the above memo was recorded by this Court. After that, from the said intimation till 10.12.2024, no steps were taken by the Plaintiff/Petitioner for impleading the legal heirs of the deceased Defendant No.8 in the above suit. Only on 10.12.2024, this petition has been filed. Upon perusal, it is also seen that more than 70 days delay was occurred in taking steps for the deceased 8<sup>th</sup> Defendant and in setting aside the abatement caused in the above suit.

9) However, no proper reasons were stated by the Petitioner for the delay caused in setting aside the abatement caused against the deceased Defendant No.8. Rather, the Petitioner stated that the delay caused was neither intentional and it is a forgivable one in the interest of justice. On the other hand, there is no strong objection placed by the Respondents herein as to the delay caused by this Petitioner.

10) This being so, this Court is of the view that if this petition is allowed, it would no way prejudice the Respondents herein and to meet out the ends of justice, this Court is inclined to allow this petition. However, the Respondents have been put to inconvenience due to the delay caused by the Petitioner's failure to act promptly. To balance the equities, this Court deems it fit to impose costs on the Petitioner as a condition for allowing this application.

**Result:**

In the result, in the interest of justice, this petition is allowed. Hence, the delay caused in filing the petition to set aside the abatement of suit against the deceased 8<sup>th</sup> Defendant and to implead the legal heirs of the deceased 8<sup>th</sup> Defendant in the above suit is hereby condoned. The Petitioner shall pay a cost of Rs.250/- to the Respondents No.2 to 7 and a cost of Rs.250/- to the Respondents No. 9 to 11 on or before 25.07.2025, failing which this order shall stand automatically vacated.

Dictated to my Steno-Typist, taken down by her in short notes, typed by her in the Court Computer, corrected by me and pronounced by me in the open Court on this the 17<sup>th</sup> day of July 2025.

**Sd/-A.Yughathymariya**  
**Additional District Munsif,**  
**Kulithalai.**

Petitioner side witness and documents - Nil.  
Respondents side witness and documents - Nil.

**Sd/-A.Yughathymariya**  
**Additional District Munsif,**  
**Kulithalai.**

