

In the Court of the Principal District Judge, Madurai
Present: Thiru. S. Sivakadatcham, B.Sc., M.L.,
Principal District Judge, Madurai

Wednesday, this the 24th day of September, 2025

I.A.No.2/2024
in
O.S No.181/2021

M/s. Nataraj Oil Mills Pvt. Limited
represented through its Director
N. Senthilnathan, Madurai

... Petitioner/ Plaintiff

/vs/

M/s. Seethalakshmi Traders,
represented by Andi Shamugaiah (Died),
Tenkasi.

.. Respondent/ Defendant

1. Seethalakshmi
2. Sindhu

... Respondents/ Proposed
Defendants 2 and 3

This petition coming on 26.08.2025 for hearing before me in the presence of Thiru.Babu Rajendran, Advocate for the petitioner and of Thiru.B.Chandra Mohan, Advocate for the Respondents 2 and 3 , upon hearing both sides and having stood over for consideration till this day, this court delivered the following:-

ORDER

The petitioner/ plaintiff has filed this petition under Order VIII, Rule 9 and Sec.151 of C.P.C., to receive the reply counter affidavit filed by the petitioner/plaintiff in I.A.No.1/2023 in O.S.No.181/2021.

2. The averments in the affidavit filed along with petition are briefly as follows:-

The petitioner has filed suit against the respondent/defendant for recovery of money and for other reliefs. The petitioner has filed I.A.No.1/2023 to condone the delay of 1086 days in filing the petition to set aside the abatement against the deceased respondent/defendant. The legal heirs of the defendant i.e. proposed respondents 2 and 3 have appeared through their counsel and filed counter statement in I.A.No.1/2023. The proposed respondents in their counter have stated that they have no knowledge about the transaction between the companies and the company run by the deceased defendant was windup by the defendant, so they are not liable for the amount to be paid by the deceased defendant. Hence, the petitioner has to give detailed reply in respect of counter filed by the proposed respondents. The petitioner has filed reply to counter along with this petition and so prayed to receive the same.

3. The averments in the counter affidavit filed by the respondents 2 and 3/ proposed defendants 2 and 3 are briefly as follows:-

These respondent filed counter in response to the contents of the petition affidavit filed in I.A.No.1/2023. The petitioner has filed this petition only to drag the proceedings. The averments of this petition affidavit are not acceptable one. If the petitioner has any objection for the counter, he can very well produce the same at the time of evidence. The petition is liable to be dismissed.

4. The point for determination:

Whether this petition is allowable or not?

5. Both side have not adduced either oral evidence or documentary evidence.

6. Point:

The learned petitioner's counsel advanced argument that the petitioner has filed the main suit for recovery of money against the 1st respondent represented by one Mr. Andi Shanmugaiah. It is further contended that the suit was presented on 16.03.2020 and when the same was pending, the said Andi Shanmugaiah was died on 31.03.2020 leaving behind the respondents 2 and 3, who inherited his estates. It is further contended that the petitioner has filed petition to condone the delay in filing petition for setting aside abatement. It is further contended that the respondents 2 and 3 filed counter stating the company run by the 1st respondent was windup and they are not liable to pay any money and also they had no knowledge about the money transaction between the petitioner and the 1st respondent, so the petition wants to file reply against counter, the same may be permitted.

7. On the other hand, the learned proposed respondents counsel contended that if the petitioner has any material or objection, he can substantiate the same at the time of evidence, this petition is filed only for protracting the proceedings, so the petition may be dismissed.

8. Records perused. The petitioner has filed the main suit against the 1st respondent M/s Seethalakshmi Traders represented by Mr. Andi Shanmugaiah

for recovery of Rs.32,61,725/- with interest upon commercial transaction. The petitioner has filed plaint on 16.03.2020 and the same was returned for certain queries. In the mean time, covid.19 pandemic happened. Thereafter, the plaint was represented and taken on file as O.S.No.181/2021. The petitioner states that during pendency of suit proceedings, the above said Andi Shanmugaiah died on 31.03.2020 leaving behind the proposed respondents 2 and 3 as his legal heirs, who inherited his estate and so, the petitioner filed petition to implead the proposed respondents as defendants, however, there was 1115 days delay in filing petition for abatement. So, the petitioner has filed petition in I.A.No.1/2023 to condone the delay of 1115 days in filing petition for abatement for deceased 1st respondent, who died on 31.03.2020. In that petition the respondents appeared through counsel and filed counter. Now, the petitioner states that in the counter the respondents 2 and 3 mentioned that they are not liable to pay any amount as they had no knowledge about the money transaction and also contended that the company run by Andi Shanmugaiah was windup and so, the petitioner wants to file reply. On perusal of counter, no serious objections raised except the objection that the petitioner can substantiate the facts at the time of evidence. It is settled proposition of law each and every party has to be given opportunity to substantiate their case and also each pleading has to be proved by adducing relevant evidences. So, the respondent will not be prejudiced by allowing the petitioner to file reply. Therefore, considering the facts and circumstances, in the interest of justice and also in order to avoid

multiplicity of proceedings, this court is inclined to allow this petition. The point is answered accordingly.

9. In the result, this petition is allowed. No cost.

Dictated to the stenographer, transcribed by him, corrected and pronounced by me in open court this the 24th day of September, 2025.

Principal District Judge,
Madurai.

List of witnesses examined:-

Petitioner side – Nil

Respondents side – Nil

List of documents marked:-

Petitioner side – Nil

Respondents side - Nil

Principal District Judge,
Madurai