

**IN THE COURT OF DISTRICT MUNSIF, VADIPATTI, MADURAI DT.****Present : Thiru. M.P. Ramkishore, B.E., BL., (Hon's)**

District Munsif, Vadipatti

**Dated this the 11<sup>th</sup> day of September 2025****CNR. No.TNMD190001762023****IA. No.02 / 2025****In****O.S. No.135 /2023**

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1. Chinna Alagan (Died),  
S/o. Alagu Moopanar

**---- Plaintiff**

2. Subalakshmi,  
D/o. Senathipathi

**---- Petitioner / LR's of  
deceased Plaintiff / Proposed Party****//Versus//**

- P. Balaji Narayanan,  
S/o. Prakasam

**---- Respondent / Defendant**

This petition was filed before this Court on 27.03.2025 coming before me for final hearing on 11.09.2025, Advocate Thiru. P.N. Babu Rajendran appeared for Petitioner / Plaintiff and Advocate Thiru. P. Pandiyarajan appeared for Respondent / Defendant. Upon hearing the arguments advanced by both the sides' counsel and upon perusing the available material records, today this Court has delivered the following....

**ORDER**

1. This petition was filed under section 5 of Limitation Act to condone the delay of 266 days in filing a petition to implead the petitioner as a party to the main suit.



2. **Petition brief averments:**

The petitioner contention was that, the main suit filed for declaration against the respondent by the petitioner's grandfather. Further the petitioner contented that the deceased plaintiff had executed a will in favour of the petitioner on 20.06.2024. Then the plaintiff died on 02.07.2024 and this petitioner was the only legal heir of the plaintiff to the deceased plaintiff. Due to the death of the plaintiff, as he was only taking care of this petitioner, she could not contact his counsel. Thereby the delay of 266 days was caused to file impleading petition to implead the petitioner as a party to the main suit to proceed this suit on behalf of the deceased plaintiff. Hence the delay of 266 days may be condoned and the petitioner may be permitted to file impleading petition in the suit.

3. **Counter averments in brief:**

In the counter affidavit the respondent denied all the petition averments and contended that the main suit was filed by the plaintiff for declaration. During the pendency of the main suit, the petitioner Chinnalagan died on 02.07.2024. This petition was filed after a long delay by claiming the title for the suit property under the support of an unregistered will dated 20.06.2024. The reason stated by the petitioner was not sufficient to condone the delay in filing the impleading petition to implead the petitioner as plaintiff to the main suit. Hence delay may not be condoned. Thus this petition is liable to be dismissed

4. The petitioner during argument relied upon a document; 1. Unregistered Will dated 20.06.2024. The respondent did not let in any evidence in this proceedings

5. **Point to determination: Whether the petition can be allowed or not?**

i. Heard both sides. Records perused. The petition contention was that the petitioner was the legal heir of the plaintiff based on his will, due to the death of plaintiff, the



petitioner could not meet with the counsel to file petition to implead the petitioner as a party to the main suit, thus a delay of 266 days occurred. Hence this petition was filed to condone the delay. On the other hand, the respondent raised serious objection that, this petition was filed by the petitioner without any right, the petitioner claiming right under unregistered will was not valid and this petition was filed with extraordinary delay by suppressing material facts and without any evidence to prove the petition ground.

ii. The learned respondent counsel during his arguments had relied upon the judgment of our Hon'ble Supreme Court in *Metpalli Lasum Bai (Since Dead) and others Vs. Metapalli Muthaih(D)* (2025 Live Law (SC) 734) and 2025 BHC Nagpur Bench 7091, to contend that the petitioners claim as a legal heir based in the will was not valid and delay was not properly explained to condone the delay. The petitioner relied on a unregistered Will dated 20.06.2024, to show that the deceased plaintiff had executed a will in respect of the suit property in favour of the petitioner. The respondent did not file any document on his side in this proceeding.

iii. On appreciating the entire materials placed before this court, it is admitted that the the plaintiff was died on 02.07.2024 and there was a delay of 266 days in filing a petition for impleading the petitioner as the party to the suit. The petitioner filed this petition seeking relief to condone the delay on the ground of his inability to contact his counsel due to the death of his grandfather.

iv. On the other hand the respondent contend that the petitioner was not a valid legal heir to the plaintiff, the delay was not properly explained and no evidence was let in to substantiate the pleadings of the petitioner.



v. In the petition in hand, the petitioner had pleaded that at the time of death, the petitioner was unable to inform his counsel as the plaintiff was the only person to take care of the petitioner. Thereby this present petition was filed only after a period of 266 days to condone delay in filing impleading petition to implead this petitioner as a party to the main suit to proceed this suit on behalf of the deceased plaintiff. On the other hand the respondent plead that the reason for delay in filing impleading petition was not properly explained by the petitioner. But considering the circumstances of the petitioner, it is clear that the petitioner had contended as the delay occurred due to the death of her grandfather – the plaintiff. This ground for delay was found reasonable and justifiable. Further the respondent challenged this petition regarding the validity of the petitioners status to claim as legal heir of the plaintiff. This issue can be resolved under order 22 rule 5 of CPC in the impleading petition filed by the petitioner in the main suit proceed. However, it is well found that the petitioner brought a probable reason to explain the delay and allowing this petition to condone the delay in filing impleading petition in the suit will not cause any impact to the respondent in proceeding with this case. Considering all the above facts, the plea of the petitioner to explain the delay can be accepted to condone the delay.

vii. From discussions above made, it is clear that the petitioner had raised convincing reason to condone the delay in filing a petition to implead the petitioner as the party to the main suit. Hence the delay can be condoned.

6. **In the result**, this petition is allowed. No costs.

*Directly dictated to the Stenographer and computerized, error checked and pronounced in the open court on this the 11<sup>th</sup> day of September 2025.*

District Munsif,  
Vadipatti.



**Petitioner side evidence : Nil**

**Petitioner side documents:**

1.	Unregistered will dated 20.06.2024 in the name of the petitioner
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**Respondents side evidence and documents : Nil**

District Munsif,  
Vadipatti.



DISTRICT MUNSIF COURT  
Vadipatti  
*Fair Order/~~Draft Order~~*  
*IA. No.02/2025*  
*In*  
*O.S. No.135/2023*  
**Date : 11.09.2025**