

In the Court of District Munsif, Mudukulathur

Present : Ms.J.C.Aparna, B.A, L.L.B.,

District Munsif,

Mudukulathur.

Thursday the 12th day of March 2026

I.A.No.02/2025

in

O.S.No.19/2022

1. Soundharavalli (Died)

2. Bagavathi

3. Rani

4. Packiyavalli

5. Packiyam

6. Indhumathi

7. Manikandan

8. Manimegalai

9. Saranya

.... Petitioners/Plaintiffs

/VS/

1. Petchiyammal

2. Muthuramalingam

.... Respondents/Defendants

3. Govindhammal

4. Varun Chellaya

5. Ramesh

..... Respondents/

Proposed 3 to 5 Defendants

This petition came on 05.03.2026 before this court for a final hearing in the presence of Thiru.S.Chandrasekaran, Learned Counsel for the Petitioners/Plaintiffs, Thiru.S.Periyasamy, Learned Counsel for the 1, 2 Respondents/1,2 Defendants and 3 to 5 Respondents/ Proposed 3 to 5 Defendants are set exparte and upon hearing both sides enquiry and upon perusing the material records and having stood over till this day for consideration, this court delivered the following:

ORDER

This petition has been filed under section 5 of the Limitation Act to condone the delay of 26 days in filing petition to set aside abatement petition to implead the legal heirs of deceased 1st plaintiff as proposed 3 to 5 defendants.

2. The contention of the Petitioners/Plaintiffs in brief:-

The petitioner is the 3rd plaintiff in the main suit. He files this petition for himself and on behalf of the other petitioners/plaintiffs. It is submitted that the petitioner was unaware of the requirement to inform the Hon'ble Court about the death of the 1st plaintiff and to take steps for bringing the legal heirs on record. It is also submitted that due to the petitioner's illness and his stay out of station, he was unable to contact his counsel and take necessary steps for impleading the legal heirs. Consequently, the suit came to be abated. Hence, prays to condone the delay of 26 days in filing the petition to implead the legal heirs of the 1st plaintiff as the delay was neither willful nor wanton. Unless the delay is condoned, the petitioner will be put to serious loss and hardship.

3. Brief averments of the 1, 2 Respondents/1,2 Defendants in brief:

The 1,2 respondents states that the averments made in the petition are false and the petition is neither maintainable under law nor on facts. The petitioners have intentionally omitted to implead Shailaja @ Laksmi Ammal, Sugapriya and Sundaramoorthi who are also the legal heirs of the deceased 1st plaintiff. The petition is filed to drag on the suit. Hence this petition may be dismissed with cost.

4. Point for consideration:-

Whether the petition be allowed and the relief be granted as prayed for?

No documents filed on either side. Summons was effected to the 3 to 5 respondents and they remained set exparte. Heard both sides.

5. Answer to the Point:-

5.1. The learned counsel appearing for the petitioners/plaintiffs contended that the 1st plaintiff died on 06.08.2024. Further it is submitted that delay in taking steps to implead the legal heirs of the deceased 1st plaintiff is neither willful or wanton. Unless the delay is condoned the petitioners/plaintiffs will be put to irreparable loss. Therefore, they prayed to allow the petition.

5.2. To the contrary, the learned counsel appearing for the respondents contended that the petitioner has not given valid explanation for condoning the delay for each and every day and have failed to implead Shailaja @ Laksmi Ammal, Sugapriya and Sundaramoorthi who are also the legal heirs of the deceased 1st plaintiff. Thereby, the petition is devoid of merits and liable to be dismissed.

5.3. Heard the rival contentions put forth by both side counsels. Perused the records available before this court. By considering the nature of the application which has been filed to condone the delay in filing a petition to set aside the abatement in impleading the legal heirs of the deceased 1st plaintiff as 3 to 5 proposed defendants, this court is of the view that unless this petition is allowed, an effective decree cannot be passed in the absence of necessary parties. Further it has been reiterated by the Hon'ble Apex court that liberal view has to be taken while dealing with this kind of application as to prevent multiple litigations. As to the contentions of the 1, 2 respondents/1, 2 defendants stating that the petitioners/plaintiffs have failed to implead certain legal heirs of 1st plaintiff, the petitioners/plaintiffs being the dominies litis cannot be forced to add parties. Failure to array the proper and necessary parties are to their own risks and any decree passed will only bind the parties to the suit. Therefore, in the light of the above discussions and in the interest of justice to avoid multiplicity of proceedings, this court is of the view that one more opportunity

to be granted to the petitioners/plaintiffs by condoning the delay. However, for the hardship caused, this court is inclined to allow this petition only on the payment of costs.

6. In the result, this petition is allowed on the condition that the petitioners/plaintiffs shall pay a cost of Rs. 500/- to the 1, 2 respondents/ 1, 2 defendants on or before 25.03.2026, failing which this petition shall stand dismissed.

Directly typed by me in my official laptop and formatted by Steno Typist, corrected and pronounced by me in open court on this 12th day of March 2026.

**District Munsif,
Mudukulathur.**

Both sides witnesses and documents : Nil

**District Munsif,
Mudukulathur.**