

In the Court of District Munsif, Mudukulathur

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

District Munsif,

Mudukulathur.

Wednesday the 18th day of February 2026

I.A.No.6/2025

in

O.S.No.41/2023

1. Minor.Ramadas(Died)

2. Minor.Nagaraj

.... Petitioners/Plaintiffs

(The minor plaintiffs rep.through their father
and next friend Muthuramalingam)

3. Muthuramalingam

4. Poomayil

Proposed 3, 4 Plaintiffs

/VS/

1. Kannusamy

2. Ganeshboopathi

..... Respondents/Defendants

This petition came on 29.01.2026 before this court for a final hearing in the presence of Thiru.S.Chandrasekaran, Learned Counsel for the Petitioners/Plaintiffs, Thiru.S.Arighandran, Learned Counsel for the 1st Respondent/ 1st Defendant, 2nd Respondent/2nd Defendant 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 Order 22 Rule 9 of CPC to set aside the abatement.

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

The petitioner is the plaintiff's guardian and 3rd proposed plaintiff in the main suit. He submits that the 1st plaintiff was died on 21.02.2025. Since the need to take steps for 1st plaintiff for bringing the legal heirs on record was not known and as the petitioner was suffering from ill health, no steps were taken to implead the legal heirs and consequently, the suit abated. The delay was neither wilful nor wanton. Unless the delay is condoned, the petitioner will be put to serious loss and hardship. It is therefore prayed that this Hon'ble court may be pleased to condone the delay and thus render justice.

3. Brief averments of the 1st Respondent/ 1st Defendant in brief:

The 1st respondent/ 1st defendant states that the averments made in the petition are false and the petition is neither maintainable under law nor on facts. The petition is filed belatedly 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. 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 21.02.2025. 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/defendants contended that the averments made in the petition are false and the petition is neither maintainable under law nor on facts. The petition is filed belatedly to drag on the suit. Thereby, the petition is devoid of merits and liable to be dismissed.

5.3. Heard both side counsels. Perused the records available before this court. The proposed parties are the father and mother of the 1st plaintiff. By considering the nature of the application to set aside the abatement to implead the legal heirs of the deceased 1st plaintiff, this court is of the view that unless this petition is allowed, no effective decree can be passed in the suit without impleading the necessary parties and seeing that the petitioners/plaintiffs have taken steps now to implead the necessary party this court thinks that the hardships of the respondents/defendants can be compensated with costs.

5.4. 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. Therefore, in the interest of justice and to avoid multiplicity of proceedings this court is of the view that one more opportunity to be granted to the petitioners/plaintiffs by setting aside the abatement. 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 contesting respondent/defendant on or before 04.03.2026, 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 18th day of February 2026.

**District Munsif,
Mudukulathur.**

Both sides witnesses and documents : Nil

**District Munsif,
Mudukulathur.**