

IN THE COURT OF DISTRICT MUNSIF, METTUR, SALEM DISTRICT

Present: **Thiru. M.Selvam, B.A., B.L.,**

District Munsif, Mettur

Wednesday, this the 23rd day of July 2025

I.A.No. 04 of 2023

in

O.S. No. 218 of 2013

(CNR No.TNSA17-000183-2013)

1. Minichi Ammal
2. Rajathi
3. Thayammal
4. Chinnaponnu
5. Meenachi
6. Poongodi
7. Perumal
8. Venkattammal
9. Chinnakannu

..... Petitioner/Plaintiffs

/Versus/

- *1.Ramachandraa (died)
2. The District Collector, Salem
3. The Tahsildar, Mettur
4. The village Administrative Officer,
Periyasoragai Villager, Mettur taluk.
- *5. Alagammal
- *6. Amirtharaj
- *7. Amudha
- *8. Kumudha

.... Respondents/Defendants

(*Amendment carried out as per the order in I.A.No.3/2021 dated.22.12.2021*)

This petition is heard in the presence of Mr B. Balamurugan., M.A., M.L., the Learned counsel for the petitioners/plaintiffs and Mr. S. Harinarayanan., B.Com., B.L., the learned Government Pleader for the respondents 2 to 4 and Mr. L.Ganapathy Subramanian., B.L., the learned counsel for the respondents 5 to 8. Enquiry heard and having stood over for my consideration till this day, this court delivered the following,

ORDER

This petition has been filed by the petitioners/plaintiffs under order 9 rule 9 of CPC to restore the suit, which was dismissed for default on 10.11.2016.

1. The petitioners are the plaintiff in the original suit, which was filed for the relief of declaration and permanent injunction. The 1st petitioner is looking after the case on behalf of the other petitioners and during the July 2016, her counsel had stated that he will send communication to attend the suit proceedings, since the suit is of the year 2016 and it will take some long time. On such good faith, the petitioners had not attended the court and it was also stated that the 5 years old suit alone are taken for trial. So the petitioners had not approached their counsel. Only on 29.11.2018, when the petitioners had approached their counsel in person and asked about the stage, they came to know that the same was dismissed for default on 10.11.2016 for non taking steps. The petitioners counsel had stated that he had sent a post card in the 1st week of November 2016, but no such communication was served to the petitioner, Hence, this petition.

2. The respondents 2 to 4 had endorsed to pass orders on merits and the respondents 5 to 8 endorsed to allow this petition on terms.

3. No oral and documentary evidence on either side.

4. The point for consideration in this petition is that whether this petition has to be allowed or not ?

5. Heard both sides and perused the pleadings and available materials on record. The original suit is filed by the petitioners/plaintiffs for the relief of

permanent injunction as against the respondents 1 to 4 herein. The suit was posted to take steps for amendment to implead the respondents 5 to 8 herein as defendants 5 to 8 in the original suit proceedings as such they were the legal heirs of the deceased 1st respondent. Since, the petitioners had not taken any steps and after affording sufficient opportunities, the suit was dismissed for default on 10.11.2016.

6. Thereafter, this petition was filed by the petitioners/plaintiffs to restore the suit along with an application to condone the delay of 731 days in filing a petition to restore the suit in I.A.No. 02 of 2019 and the same was allowed by this court on 04.08.2023 on payment of cost of Rs. 1,500/- to the District Legal Service Authority, Salem and subsequently, the petitioners had also paid the cost and in pursuance, the said petition was allowed on 14.08.2023.

7. It is pertinent to note here that in the above petition, the respondents 2 to 4 herein had endorsed as no counter and the respondents 5 to 8 were set-aparte. In this petition, the respondents 2 to 4 had endorsed to pass orders on merits and the respondents 5 to 8 had endorsed to allow this petition on terms. Hence, considering the above reason adduced by the petitioners and that an opportunity to be given to the petitioners to proceed with their case and as per the above facts and circumstance of this case and in the interest of justice, this court is inclined to allow this petition on cost in order to advance the interest of justice to either side.

In the result, this petition is allowed on payment of cost of Rs. 500/- to the respondents 5 to 8 on or before 11.08.2025, if not, this petition stands dismissed. For compliance call on 12.08.2025.

This order is typed by me in my official laptop, corrected and pronounced by me in the open court on this 23rd day of July 2025.

**Sd/- Thiru. M.Selvam,
District Munsif,
Mettur**

Both side witnesses and documents: Nil

**Sd/- Thiru. M.Selvam,
District Munsif,
Mettur**