

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI

PRESENT : Tmt.R.PREMI, B.A., L.L.B., (Hons).,

District Munsif, Devakottai

Monday, the 2nd day of March, 2026

IA.No.04/2025

in

OS.No.16/2023

1. Ganesan

2. Gandhimathi

3. Arunagiri Murugan

4. Senthilkumar

5. Valarmathi

6. Kanimozhi

7. Karpagavalli

...Petitioners

-Vs-

Karuppaiah

...Respondent

This petition is coming before me for final disposal in the presence of Thiru.N.Ramji learned advocate for the Petitioners, Thiru.N.Shankar learned advocate for the Respondent. Having heard of both side enquiry and upon perusing the documents, this court do hereby pronounce the following...

ORDER

The petition is filed under Section 5 of Limitation Act.

1. The averments in the petition are as follows:

The petitioner is the proposed 4th plaintiff in the main suit. The plaintiff in the original suit is the father of the petitioner and the husband of proposed second defendant. The plaintiff has died on 14.05.2024 living behind the petitioners. The deceased plaintiff's legal heirs should have been substituted within 60 days. But the same was not taken and the suit has abated. The petitioner states that the delay of 440 days has been caused and the same is not intentional. He has also filed petitions to set aside the abatement and substitute the legal heirs separately. He states that the delay was not intentional and if the petition is not allowed, he would be subject to irreparable loss and injury. Hence he prayed for the petition to be allowed.

2. Averments in the counter are as follows:

The respondent denies the contentions of the petition and states that the reason for the delay of 440 days has not been mentioned by the petitioner. The respondent has also states that the deceased had another legal heir namely Sangeetha who was not added as a proposed plaintiff in the petition. The petitioner has filed the petition concealing one of the legal heirs of the deceased plaintiff. Hence he prays for the petition to be dismissed.

3. Now the question to be decided is whether the petition has to be allowed or not?

3(i). Petition and counter perused. Enquiry heard on both sides. The petition has been filed to condone the delay of 440 days in substituting the legal heirs of the deceased plaintiff. On the other hand, the respondent has contested stating that the petitioner has left out a legal heir from being substituted. Both side averments perused. It is the true that the delay of 440 days has been caused and no valid reason has been stated by the petitioner. But it is important to give

every person a reasonable opportunity to be heard. The contention of the respondent that one of the legal heirs was left out shall be dealt with in a petition to substitute the legal heirs as this is only a petition to condone the delay caused. Hence the court is inclined to allow this petition. But since the delay of more than a year has been caused and no valid reason was stated for the same, the court finds it fit to impose a cost of Rs.1000/- on the petitioner to be paid to the respondent. Hence in the end, the petition is allowed with the cost of Rs.1000/-.

4. Decision

In the end, the petition is allowed with the cost of Rs.1000/-.

This Order was dictated by me, typed by the steno-typist, corrected by me and pronounced by me in the open court on 2nd day of March 2026.

**District Munsif,
Devakottai.**

Annexures:

List of witnesses on the side of the Petitioners-Nil-

List of documents on the side of the Petitioners-Nil-

List of witnesses on the side of the Respondent-Nil-

List of documents on the side of the Respondent-Nil-

**District Munsif,
Devakottai.**