

IN THE COURT OF THE DISTRICT MUNSIF, DEVAKOTTAI

PRESENT: Thiru. A. DHARANIDHARAN, B.Sc., M.L., M.A., LL.M.

District Munsif, Devakottai

Thursday, the 07th day of April, 2022

I.A. 02/2021

in

O.S. No. 36/2018

1. Arumugam Naidu
 2. Sakthi@ Balasubramani
- Petitioners/Plaintiffs

Vs

1. The District Collector, Sivagangai
 2. Tahsildhar, Devakottai
 3. Mayazhagu
 4. Santhammal
 5. Boominathan
- Respondents/Defendants

This petition having been finally heard today 07.04.2022 in the absence of the R1 and R2 and the enquiry was already heard from R3, R4 and R5 and in the presence of Mr. T. Sivanandham, learned counsel for the Petitioner/Plaintiff and after perusal of the entire records and having stood over for my consideration till this day, this court delivers the following:

ORDER

The petition was filed under Sec 5 of Limitation Act and under Section 151 of Civil Procedure Code seeking to condone the delay in filing petition to implead the legal heir of the deceased.

2. **The averments set out in the petition/affidavit filed by the petitioner is**

as follows:

2.1 The Petitioners states that they were the Plaintiffs in the main Suit for seeking mandatory injunction.

2.2 The Petitioner further states that when the matter is pending before this Court, the 1st plaintiff died on 29/05/2021 and the suit was abated for not impleading the legal heirs within the stipulated period of time. It is just and necessary to implead the legal heirs of the 1st plaintiff and to proceed with the suit. There was a delay of 140 days, but due to his ill health, it was not filed on time. The present petition is to condone the delay in filing.

2.3 The Petitioner contends that allowing of this petition will not cause any prejudice to the respondents and the petitioner didn't file the present application with the stipulated period of time.

2.4 The respondents/defendants denies all the claim made by the petitioner and contend that the present petition was filed to drag the case unnecessarily and the present petition is liable to be dismissed in limine with costs. It is pertinent to state that during the enquiry there is no representation from the R1 and R2 despite granting several opportunities. Hence heard from the Petitioner, R3, R4 and R5 and this Court has inclined to pass suitable orders.

3. Now the point for consideration is whether the petitioner is entitled to get the relief as prayed for?

4. No oral or documentary evidence was adduced on the side of the Petitioners/Plaintiffs.

5. No oral or documentary evidence was adduced on the side of the Respondents/Defendants.
6. Both the sides heard. R1 and R2 were absent.
7. **In fine, in the interest of Justice this petition will be allowed.**

This Order was directly typed by me in my official laptop, corrected by me and pronounced by me in the Open Court on this the 07th day of April, 2022.

District Munsif,
Devakottai

Annexures:

List of witnesses on the side of the Petitioner/Plaintiff
NIL

List of documents on the side of the Petitioner/Plaintiff
NIL

List of witnesses on the side of the Respondents/Defendants
NIL

List of documents on the side of the Respondents/Defendants
NIL

District Munsif,
Devakottai