

**IN THE COURT OF ADDITIONAL DISTRICT JUDGE (FTC),
THENI.**

**Present: Thiru. C.Sankar, B.A. M.L. PGDCFS.,
Additional District Judge [FTC],
(Full Additional Charge)
Theni.**

Thursday, the 06th day of November 2025.

CNR.No.TNTH01-001-364-2017

IA.No.02/2025

- in -

IA.No.01/2024

-in-

OS.No.26/2017

-

1. S. Sannasi @ Chezhiyan

2. S. Sujatha

:: Petitioners / 1,4 Respondents /1, 4 defendants

// Vs. //

1. Padmavathi

2. Umarani

:: Respondents / Petitioners/ Plaintiffs

This petition came up for final hearing before this Court on 23.09.2025 in the presence of Thiru. P.Subramani Learned Counsel for the Petitioners and Thiru. M. Uthayasooriyan Learned Counsel for the respondents and upon perusing the petition, counter and documents and upon hearing both sides arguments and having stood over for consideration till this day, this Court delivered the following...

ORDER

This petition is filed by the Petitioners under Section 151 of CPC to revoke the order passed in I.A. NO.1/2024 and to pass the orders on merit.

Averments made in the petition in brief is as follows:

2. The respondents/ petitioners /petitioners /plaintiffs in the above main case have filed a petition in I.A.NO 1/2024 seeking restoration of the dismissal on 24-1-2019 due to the negligence of the above petitioners. The 5th respondent in the above petition has already died. In this regard, a memo was filed on 24-9-2024 by the petitioner side and the above memo was also recorded and Check and Call on 21-10-2024 was issued. On 21-10-2024, posted for filing counter by the petitioners side. On 7-12-2024, the petitioners prays an adjournment for filing counter through the counsel Mr. Sethupathi and to take steps in the death of the 5th respondent. In requesting to be heard, the above counsel Mr.Sethupathi lawyer also requested to this court for adjournment to file a counter-affidavit, and this court asked the counsel for the petitioners in this petition to write a no objection to the above petition. The above said counsel, without having locus standi, has stated that the court insist to the above petition has no objection in writing and the above petitioner has no right to make an objection. In the above petition, no one has made an objection and the details of the death of the 5th respondent have been informed to the court through a memorandum. The court has allowed the above petition and passed an order on the 07.12.2024 and the main suit has been heard on 7-1-2025. In the above IA.NO 1/2024, the order passed against the dead person and the order passed against the said petition is clearly nullity. Therefore, the petitioners have filed a counter. Therefore, it is necessary to revoke the order passed on 7-12-2024, in the above suit and proceed with the above petition in I.A.NO 1/2024 and pass an order on the merits, otherwise the petitionersv will suffer great loss and inconvenience. Therefore, it is necessary and justifiable for the Court to revoke the order passed in the above petition in IA.NO 1/2024 and dated 7-12-2024, and to proceed the above petition in I.A.NO 1/2024 and issue an order on the merits. Hence, this petition may be allowed.

Averments made in the counter filed by the R1 / plaintiff in brief:

3. It is true that the main suit was dismissed due to the default of the respondents of this petition. Accordingly, the respondents of this petition have filed

the petition in I.A.No. 1/2024 before this court seeking to quash the order for dismissal on 24.01.2019 and it is true that the petition is pending. But, in that petition, it is not true that the petitioners of this petition have filed a memorandum on 24.09.2024 stating that the 5th respondent has died. These are the circumstances falsely alleged by the petitioners of this petition for the purpose of this petition. It has been stated by the petitioners of this petition that during the hearing on 07.12.2024, their counsel requested oral argument to file an objection in the petition of this main petition in 1.A.No: 1/2024, but the court insisted on their counsel to write that there was no objection, and their counsel, who was not present, wrote it in the pleading form, and the court has no right to file this petition by criticizing the court and the court officials. During the hearing on 07.12.2024, the junior lawyers of the petitioners of this petition appeared before this court and made the above statement that there was no objection to this main petition based on the advice of the senior lawyer. On that basis, the court also allowed the main petition and order passed on 07.12.2024. However, the petitioners of this petition in IA.No 1/2024 have stated that they have made the above statement only under the coercion of the court. In this petition, it has been falsely stated that having instructed the lawyer to make the above reference, the senior counsel for the petitioners of this petition, the petitioners of this petition, who are aggrieved by the fact that the lower court has allowed the main petition, are now deliberately filing this petition before this court, criticizing the court and the court officials, and are dragging out the proceedings. The petitioners of this petition have no right to file this petition seeking to revoke the order passed by this Court on 07.12.2024 granting permission to the petitioner of this petition, without objection. Hence, this petition may be dismissed with costs.

4. No oral or Documentary evidences let in by both sides.

5. **Point for determination:**

1. Whether this petition is allowed or not ?

Point No.1.

6. The counsel for the petitioners is argued that, the respondents/ petitioners /petitioners /plaintiffs in the above main case have filed a petition in I.A.NO 1/2024 seeking restoration of the dismissal on 24-1-2019 due to the negligence of the above petitioners. The 5th respondent in the above petition has already died. In this regard, a memo was filed on 24-9-2024 by the petitioner side and the above memo was also recorded and Check and Call on 21-10-2024 was issued. On 21-10-2024, posted for filing counter by the petitioners side. On 7-12-2024, the petitioners prays an adjournment for filing counter through the counsel Mr. Sethupathi and to take steps in the death of the 5th respondent. In requesting to be heard, the above counsel Mr.Sethupathi lawyer also requested to this court for adjournment to file a counter-affidavit, and this court asked the counsel for the petitioners in this petition to write a no objection to the above petition. The above said counsel, without having locus standi, has stated that the court insist to the above petition has no objection in writing and the above petitioner has no right to make an objection. In the above petition, no one has made an objection and the details of the death of the 5th respondent have been informed to the court through a memorandum. The court has allowed the above petition and passed an order on the 07.12.2024 and the main suit has been heard on 7-1-2025. In the above IA.NO 1/2024, the order passed against the dead person and the order passed against the said petition is clearly nullity. Therefore, the petitioners have filed a counter. Therefore, it is necessary to revoke the order passed on 7-12-2024, in the above suit and proceed with the above petition in I.A.NO 1/2024 and pass an order on the merits, otherwise the petitionersv will suffer great loss and inconvenience. Therefore, it is necessary and justifiable for the Court to revoke the order passed in the above petition in IA.NO 1/2024 and dated 7-12-2024, and to proceed the above petition in I.A.NO 1/2024 and issue an order on the merits. Hence, this petition may be allowed.

7. The Learned Counsel for the respondents argued that, it is true that the main suit was dismissed due to the default of the respondents of this petition. Accordingly, the respondents of this petition have filed the petition in I.A.No. 1/2024 before this court seeking to quash the order for dismissal on 24.01.2019 and it is true that the petition is pending. But, in that petition, it is not true that the petitioners of this petition have filed a memorandum on 24.09.2024 stating that the 5th respondent has died. These are the circumstances falsely alleged by the petitioners of this petition for the purpose of this petition. It has been stated by the petitioners of this petition that during the hearing on 07.12.2024, their counsel requested oral argument to file an objection in the petition of this main petition in I.A.No: 1/2024, but the court insisted on their counsel to write that there was no objection, and their counsel, who was not present, wrote it in the pleading form, and the court has no right to file this petition by criticizing the court and the court officials. During the hearing on 07.12.2024, the junior lawyers of the petitioners of this petition appeared before this court and made the above statement that there was no objection to this main petition based on the advice of the senior lawyer. On that basis, the court also allowed the main petition and order passed on 07.12.2024. However, the petitioners of this petition in I.A.No 1/2024 have stated that they have made the above statement only under the coercion of the court. In this petition, it has been falsely stated that having instructed the lawyer to make the above reference, the senior counsel for the petitioners of this petition, the petitioners of this petition, who are aggrieved by the fact that the lower court has allowed the main petition, are now deliberately filing this petition before this court, criticizing the court and the court officials, and are dragging out the proceedings. The petitioners of this petition have no right to file this petition seeking to revoke the order passed by this Court on 07.12.2024 granting permission to the petitioner of this petition, without objection. Hence, this petition may be dismissed with costs.

8. Heard. Both sides. Records perused. This respondents are the plaintiffs in the original suit. The respondents have filed a Partition Suit against the petitioners seeking 2/5 share in the Plaint Schedule Properties. In this case, the original suit has been dismissed on 24.01.2019 due to non appearance of the respondents. Therefore, the petition IA.No.01/2024 seeking restore of the original suit. In this case, the petitioners of this petition have filed No Objection on 07.12.2024, when it was time to file an objection. Further, the petition IA.No.01/2024 was allowed on 07.12.2024. Therefore, this petition has been filed seeking to revoke the above petition and pass an Order. Although the respondents have strongly objected to this petition, the respondents will not suffer any loss or damage by allowing this petition. However, if the petition filed by the petitioners is dismissed, there is a possibility of loss to the petitioners. Hence, considering the facts and circumstances of this petition this court is of view that this petition may be allowed. Hence, In the interest of justice, this petition is allowed without costs.

9. In the result, this petition is allowed without costs.

Dictated by me, directly typed by Steno -typist into computer, corrected and pronounced by me in the open Court on 06.11.2025

Additional District Judge,(FAC)
Theni

Petitioner side Witnesses and Documents: Nil.

Respondents side Witnesses and Documents: Nil.

Additional District Judge,(FAC)
Theni

Additional District Court [FTC]

Theni

FAIR / ORDER

IA No.2/2025 in IA 1/2024

in OS No.26/2017

Dated: 06.11.2025

