

IN THE COURT OF ADDITIONAL DISTRICT AND SESSIONS,
PERIYAKULAM.

Present: Tmt. S.Sameena, B.A. L.L.B.,
Additional District and Sessions Judge,
Periyakulam.

Friday, the 10th day of January 2025.

CNR.No.TNTH09 000006 2008

IA.No.06/2024

- in -

OS.No.17/2008

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1. Saravanan S/o. Dhavudapillai,
aged about 44 yeas and residing at
Kalamman Kovil Near, Appaji Pillai Street,
Ward No.11, Uthamapalayam Taluk,
Theni District.
2. Sivakumar S/o. Dhavudapillai,
aged about 48 yeas and residing at
Kalamman Kovil Near, Appaji Pillai Street,
Ward No.11, Uthamapalayam Taluk,
Theni District.
3. Selvakumar S/o. Dhavudapillai,
aged about 58 yeas and residing at
Kalamman Kovil Near, Appaji Pillai Street,
Ward No.11, Uthamapalayam Taluk,
Theni District.
4. Santhi W/o. Marimuthu,
aged about 44 yeas and residing at
Kalamman Kovil Near, Appaji Pillai Street,
Ward No.11, Uthamapalayam Taluk,
Theni District.

... Petitioners

// Vs. //

1. Ponvelammal W/o. Gnanamani,
aged about 36 years and residing at
Door No.2 (Karnam House), South Car Street,
Uthamapalayam Taluk, Theni District.
2. Karhigairani W/o. Ravi @ Karthikeyan,
aged about 33 years and residing at
Door No.2 (Karnam House), South Car Street,
Uthamapalayam Taluk, Theni District.
3. Meenakshiammal D/o. Late. Rathinam Pillai,
aged about 38 years and residing at
Rajeswari Bhavanam, No.10,
South Agraharam, Mangalapuram,
Medical College Road, Thanjavur District.
4. Rajeswari **(Died)** W/o. Late. Rathinam Pillai.
5. Periyakaruppan S/o. Late. Veerana Thevar,
residing at Endapuli, Pudupatti,
Periyakulam Taluk, Theni District.
6. Rajamani D/o. Late. Veerana Thevar,
residing at Rajeswari Bhavanam, No.10,
South Agraharam, Mangalapuram,
Medical College Road, Thanjavur District.
7. Indirani W/o. Late. Perumal Thevar,
aged about 54 years and residing at
U.Ammapatti, Uthamapalayam Taluk,
Theni District.

8. Leelavathi W/o. Periyakaruppan,
residing at Vaigai Dam, Aundipatti Taluk,
Theni District.
9. Thavuda Pillai **(Died)** S/o. Raju Pillai.
10. Seetha Annavi **(Died)** S/o. Muthiya Annavi.
11. Bhagavathi Marimuthu **(Died)** S/o. Late. Pitchai
Ganapathi Asari.
12. Syed Abudhakhir S/o. Shahul Hammed,
residing at No.9/5/31, Door No.31
Old Door No.14, South Car Street,
Uthamapalayam Taluk, Theni District.
13. Umsalammal W/o. Kathar Maideen,
aged about 55 years and residing at
No.9/5/32, South Car Street,
Uthamapalayam Taluk, Theni District.
14. Ramamoorthy **(Died)**.
15. Abdul Rahim S/o. Peer Mohamed Khan,
aged about 60 years and residing at
Ward No.12/3/358, Old No.97,
Main Road, Agraharam, Uthamapalayam Taluk,
Theni District.
16. Lakkom S/o. Chella Udayar,
aged about 48 years and residing at
T.Sinthalacheri, Meenakshipuram,
Theni District.

17. Mathias S/o. Chella Udayar,
aged about 45 years and residing at
T.Sinthalacheri, Meenakshipuram,
Theni District.
18. Venkatesan S/o. Balagurunathan,
aged about 50 years and residing at
Ward No.13/1, Gandhiji Road,
Kombai, Theni District.
19. Sri Amulu **(Died)** S/o. Sinthana Naidu.
20. Nagalakshmi **(Died)** W/o. Narayansamy Chettiar.
21. Perumal Naidu **(Died)** S/o. Venkitasamy Naidu.
22. Paramasivam **(Died)** S/o. Chinnamuthu.
23. Rengasamy S/o. Chinnamuthu,
residing at Ward No.7, T.V.K.Street,
Kombai, Theni District.
24. Sethuraman S/o. Thavasi Thevar,
aged about 48 years and residing at
No.7/18, Yadavar Street, Cumbam Town,
Theni District.
25. Chandrasekaran S/o. Late. Balakrishnan,
residing at Srinivasapuram, Kodaikanan,
Dindigul District.
26. Muthusamy S/o. Karuppiah Thevar,
aged about 48 years and residing at
Angalamman Kovil Lane, North Car street,
Uthamapalayam Taluk, Theni District.

27. Maheswari W/o. Muthu Ramalingam,
residing at Forewar Block Leader,
Karugumalai, Thirunelveli District.
28. Raja Selvi W/o. Manikandan,
aged about 40 years and residing at
No.1, South Car Street, Uthamapalayam Taluk,
Theni District.
29. Manikandan, aged about 50 years and
residing at No.1, South Car Street,
Uthamapalayam Taluk,
Theni District.
30. Deivendran S/o. Perumal Naidu,
residing at Ward No.7, Thol Naikar Street,
Hanumanthanpatti Post, Uthamapalayam Taluk,
Theni District.
31. Rajamani S/o. Perumal Naidu,
residing at Ward No.7, Thol Naicker Street,
Hanumanthanpatti Post, Uthamapalayam Taluk,
Theni District.
32. Subbulakshmi W/o. Seetha Annavi,
residing at Akkammal Achikaliammal Kovil
Lane, Uthamapalayam Taluk,
Theni District.
33. Gurusamy S/o. Late. Seetha Annavi,
aged about 64 years and residing at Akkammal
Achikaliammal Kovil
Lane, Uthamapalayam Taluk,
Theni District.

34. Muthaiah S/o. Late. Seetha Annavi,
aged about 62 years and residing at
Akkammal Achikaliammal Kovil
Lane, Uthamapalayam Taluk,
Theni District.
35. Iyyiyapan S/o. Late. Seetha Annavi,
aged about 60 years and residing at
Akkammal Achikaliammal Kovil
Lane, Uthamapalayam Taluk,
Theni District.
36. Murugan S/o. Late. Seetha Annavi,
aged about 58 years and residing at
Akkammal Achikaliammal Kovil
Lane, Uthamapalayam Taluk,
Theni District.
37. Raman S/o. Late. Seetha Annavi,
aged about 58 years and residing at
Akkammal Achikaliammal Kovil
Lane, Uthamapalayam Taluk,
Theni District.
38. Nadarajan **(Died)** S/o. Late. Seetha Annavi.
39. Ramalakshmi W/o. Late. Pagavathi Marimuthu,
aged about 70 years and residing at
Vinayakar Kovil Near, Bharathipuram,
Grompettai, Chennai.
40. Poomeshwaran S/o. Late. Pagavathi Marimuthu,
aged about 45 years and residing at
Vinayakar Kovil Near, Bharathipuram,
Grompettai, Chennai.

41. Malathi D/o. Late. Pagavathi Marimuthu,
aged about 43 years and residing at
Vinayakar Kovil Near, Bharathipuram,
Grompettai, Chennai.

42. Prabha S/o. Late. Pagavathi Marimuthu,
aged about 43 years and residing at
Vinayakar Kovil Near, Bharathipuram,
Grompettai, Chennai.

... Respondents

This petition came up for hearing before me on 12.12.2024 in the presence of Mr.V.Manokaran, Learned Counsel for the petitioners and Mr.R.A.Mohanram, Learned Counsel for the 1st and 2nd respondents and upon perusing the petition and counter and upon hearing both sides and having stood over for consideration till this day, this Court delivered the following...

ORDER

This petition is filed by the petitioners/proposed parties U/s. 114 r/w 141 and 151 of CPC to review the Order in IA.No.90/2022 dated 09.01.2024.

Heard both sides.

2. Point for consideration:

1. Whether the petition can be allowed ?

Point No.1.

3. This a suit for Partition filed in the year 2008 and the plaintiff claim 2/3rd shares in the Plaint Schedule Properties. The petitioner are 41st, 42nd, 43rd and

44th defendants, who were added as parties as per the Order of this court passed in IA.No.90/2022 dated 09.01.2024. The petitioner's father viz., Thavudu Pillai, was 7th defendant in the suit.

4. The 1st, 2nd respondents/plaintiffs had filed IA.No.90/2022 stating that, 7th defendant died on 05.03.2020 leaving behind the petitioners as legal heirs and they are to be impleaded as 41st, 42nd, 43rd and 44th defendants in the suit. The petitioners 41st, 42nd, 43rd and 44th respondents have filed objection stating that, the petition is barred by limitation and without filing a petition to set aside the abatement, they cannot file the impleading petition.

5. The trial court after discussing the period of exemption granted by the Honourable Supreme Court on account of Covid Pandemic, held that the petition is maintainable and not barred by limitation and the petition to set aside abatement is not necessary.

6. It is not in dispute that, the petitioners are the legal heirs of deceased 7th defendant. They are admitting the said fact in the counter filed in IA.No.90/2022. According to the petitioners, their father 7th defendant died on 04.03.2020 and not on 05.03.2020 and as per the exemption granted by the Honourable Supreme Court, from 01.03.2022, the impleading petition to be filed within 90 days ie., on or before 30.05.2022 and thereafter abatement arises in so far as the legal heirs of 7th defendant and without setting aside the abatement, this petition cannot be allowed.

7. The petitioners have filed petition to review the Order in IA.No.90/2022 and the same has been rejected by this court on 03.02.2024 as not maintainable. Now by this petition the petitioners seeks to restore and number the above application No.263 which was rejected by this court. In short the petitioners seek to restore and

number the petition No.263 which was rejected without taking the said petition on file, on 03.02.2024.

8. If the petitioners feel aggrieved by the Order passed in IA.No.90/2022 dated 09.01.2024, they should have approached the higher Forum for appropriate relief. This court in IA.No.90/2022 has passed a detailed order as to the calculation of the period in the light of the Order of Honourable Supreme Court.

9. Admittedly, these petitioners are legal heirs of the deceased 7th defendant and the 1st, 2nd respondents/plaintiffs have rightly impleaded them as legal heirs. It is not understandable why these petitioners are adopting hyper technical approach in the impleading petition and how far it is going to advance their case on merits. Even, assuming that the calculation of limitation submitted by these petitioners is correct, the delay will not be considered as inordinate delay. This court is of the considered view that this petition is devoid of merits. Therefore, this petition has to be dismissed.

10. In the result the petition is dismissed. No cost.

Dictated by me, directly typed by Steno-Typist into computer, corrected and pronounced by me in the open Court, this the 10th day of January 2025.

(Sd./- S.Sameena)
Additional District and Sessions Judge,
Periyakulam.

Petitioners side Witness and Documents: Nil.

Respondents side Witness and Documents: Nil.

(Sd./- S.Sameena)
Additional District and Sessions Judge,
Periyakulam.