

**IN THE COURT OF THE DISTRICT MUNSIF, ARNI.
PRESENT: Miss. D.V.Koperundevi,B.com.,L.L.B.,(Hons)**

**DISTRICT MUNSIF,
DISTRICT MUNSIF COURT, ARNI.**

Saturday, the 20th day of September 2025.

I.A. No. 03/2023

in

O.S. No. 269/2008.

1.Selvakumar
2. Sakthivel
3. Chandrasekar
4.Anja
5.Kavitha

... Petitioners/Plaintiffs

/Vs/

1.Thiruvengadam
2.Maheswari
3.Sivalingam
4.Palani
5.Ealumalai
6.Deepa
7.V.Suresh
8.Sachithanantham (died)
9.K.Palani
10. K.Manidandan
11.Thenmozhi
12.Bakkiyalakshmi
13.Bharathi
14.Baskaran

...Respondents/Defendants

...Proposed parties

...Proposed legal representatives of 8th
defendant Sachithanantham

This petition came up before me for final hearing on 09.09.2025 in the presence of Thiru.D.Chandrasekaran Advocate for the Petitioners/Plaintiffs, and Thiru. S.Dhananjayan, Advocate for the Respondents/Defendants, and Proposed parties, and upon hearing both sides enquiry and perusing the material records of this petition and having stood over for consideration till this day, this court delivers the following:-

ORDER

The petitioner filed this petition under Order 22 Rule 9 and Section 151 CPC.

I. The gist of the averments in the petition:

1. In the affidavit, the petitioner submit that the petitioner herein and the 1st plaintiff in the main suit. The petitioner filing this affidavit for himself and on behalf of the other plaintiffs.
2. The petitioner submit that pending the above case the 8th defendant namely (Sachithanantham) died on 14.05.2022 leaving behind his wife Thenmozhi-(1), his daughters Bakkiyalakshmi-(2), Bharathi-(3) and his son Baskaran-(4), are to be added as parties to the above suit being the legal heirs of deceased defendant (Sachithanantham) for proper adjudication.
3. The petitioner submit that it was brought to his notice knowingly on 03.07.2023 about the death of Sachithanantham, though the death of Sachithanantham was not reported by his advocate as per order 22 rule 10(A) of CPC, hence there is no dealy in filing the L.R. application for coming to the petitioner's knowledge about the death of Sachithanantham, by way of abandon caution the petitioner filing the abetment application and also section 5 of application to condone the delay of 323 days in filing abatement application and L.R application.
4. The petitioner submit that the petitioner ought to filed the L.R. application with in 90 days after the death of the 8th defendant Sachithanantham. The petitioner was not in a position to file L.R. application in time due to the reasons stated above. The L.R application and the set aside abatement application could not be filed in time. Hence the suit is abated against the 8th defendant Sachithanantham. So it becomes necessary to him to set aside the abatement caused in the above case. The petitioner failure to file those applications in time is neither wanton nor willful. If this application is not allowed the petitioner will be put to serious loss and hardship. Balance of convenience is in his favor. It is therefore just and

necessary that the order of abatement of the suit may be set aside under the circumstances.

II. The gist of the averments in the counter filed by R2 to R5:

1. In the above petition, the petitioners filed a petition seeking to set aside the abatement that occurred due to the delay of more than 90 days in bringing the legal heirs of the 8th respondent, Satchidanandam, who passed away on 14.05.2022 during the pendency of the suit, as respondents 11 to 14 in the said suit. This petition, filed under Order 22 Rule 9, is not maintainable legally and equitably.
2. The petitioners themselves have to prove the facts mentioned in paragraph 3 of the above affidavit.
3. In the above petition, no documents regarding the death of the deceased 8th respondent Satchidanandam or the heirship certificate of his heirs have been attached with the petition. Therefore, the petitioners themselves have to prove the details related to the legal heirs of the deceased Satchidanandam with proper documents.
4. The petitioners have not stated any reason in the above petition for the delay in seeking to add the above legal heirs to the above case. The petitioners must prove the delay for each day in filing the said petition.
5. Therefore, the above petition is not maintainable.
6. Therefore, the petitioners most humbly pray to the Hon'ble Court to dismiss the above petition along with the costs incurred by this respondent.

III. Points:

Whether the petition under Order 22 Rule 9 and Section 151 of CPC to be allowed or not?

IV. Points for Consideration:

Heard on both sides. Records have been perused.

1. The petitioners, who are the plaintiffs in the main suit, have come forward with

the present petition under Order 22 Rule 9 and Section 151 of CPC seeking to set aside the abatement caused by reason of the death of the 8th defendant, Sachithanantham, who admittedly passed away on 14.05.2022 during the pendency of the suit, and to implead his legal heirs namely Thenmozhi (wife), Bakkiyalakshmi and Bharathi (daughters), and Baskaran (son) as proposed respondents for proper adjudication of the dispute. The case of the petitioners is that they came to know of the death of the said defendant only on 03.07.2023, since the death was not reported by the advocate for the deceased as mandated under Order 22 Rule 10-A CPC. Immediately thereafter, exercising abundant caution, the present petition along with an application under Section 5 of the Limitation Act for condonation of delay of 323 days was filed. It is further contended that the failure to file the L.R. application within the prescribed 90 days was neither willful nor wanton, but only due to lack of knowledge of the death, and if the abatement is not set aside, the petitioners will be put to irreparable loss and hardship as their substantive rights will be defeated without an adjudication on merits.

2. The contesting respondents 2 to 5, in their counter, have strongly opposed the petition. Their objections are that the petition is not maintainable either in law or on facts, as it is filed beyond the period of limitation prescribed under Order 22. They point out that the petitioners have not filed any proof of death of the deceased 8th defendant, such as a death certificate, nor have they produced any legal heirship certificate to establish that the proposed parties are indeed the legal heirs. It is also contended that the explanation offered for the delay is vague, general, and unsatisfactory, since the petitioners have not explained each day's delay as required under law. The respondents thus pray for dismissal of the petition with costs, contending that the petition is only an attempt to overcome the consequences of their own negligence.

3. On consideration of the rival submissions, the following legal position emerges: under Order 22 Rule 3 and Rule 4 CPC, when a plaintiff or defendant dies and the right to sue survives, it is incumbent on the legal representatives of the deceased party to be brought on record within 90 days of death; failing which, the suit stands abated as against the deceased party. Under Rule 9, such abatement may be set aside if sufficient cause is shown for not filing the application in time. In addition, Section 5 of the Limitation Act applies, enabling the Court to condone the delay upon being satisfied that there was sufficient cause. The expression “sufficient cause” has been interpreted by the Hon’ble Supreme Court to mean a cause which is beyond the control of the party and which must receive a liberal construction so as to advance substantial justice, provided the opposite party is not irretrievably prejudiced.
4. Applying these principles, it is undisputed that the 8th defendant died on 14.05.2022. It is also not in dispute that no steps were taken within 90 days to implead his legal heirs, thereby causing abatement. The explanation of the petitioners is that they came to know of the death only on 03.07.2023. It is true that under Order 22 Rule 10-A, it is the duty of the pleader appearing for the deceased party to inform the Court about the death. In the present case, there is no material to show that such duty was complied with. The plea of the petitioners that they were unaware of the death until July 2023 cannot be brushed aside, since in rural property disputes parties may not always be aware of each other’s personal circumstances unless formally intimated. The delay therefore cannot be termed as wholly deliberate or wanton.
5. As to the explanation for the delay of 323 days, while the petitioners have not given day-to-day particulars, the broad explanation based on lack of knowledge due to non-reporting by the advocate of the deceased is a reasonable ground. The test to be applied is whether the cause shown is bona

fide and whether denial of condonation will result in a meritorious matter being thrown out at the threshold. On the facts of the present case, there is no serious prejudice pleaded or proved by the respondents, other than the inconvenience of delay. **Hence, the petition to set aside the abatement of deceased 8th defendant is allowed and no costs.**

V. Result:

As a result, the petition is allowed and no costs.

Dictated to Steno Typist, and computerized by her directly, corrected and pronounced by me in the open Court, on the 20th day of September 2025.

**District Munsif
Arni**

List of documents & witnesses: N I L

**District Munsif
Arni**