

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. 04/2023

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 4 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. Hence, the petitioner pray that this Hon'ble court may be pleased to implead the proposed parties Thenmozhi-(1), Bakkiyalakshmi-(2), Bharathi-(3), Baskaran-(4), as Legal representative of the deceased defendant (Sachithanantham). If the said Legal representative are not added as parties to the above suit to Legal representative of the deceased defendant (Sachithanantham) the petitioner will be put to irreparable loss and hardship.

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

1. In the above petition, the petitioner states that while the suit was pending, the 8th defendant, Sachithanantham, died on 14.05.2022, and therefore, a petition has

been filed to include his legal heirs as defendants 11 to 14 in the said suit. The said petition is not legally and equitably maintainable.

2. The facts mentioned in the above affidavit para 3 must be proven by the petitioners themselves.
3. In the above petition, no evidence of the death or heirship of the deceased 8th defendant, Sachithanantham, has been attached to the petition. Therefore, the petitioners themselves must prove the details related to the legal heirs of the deceased Sachithanantham with proper documents.
4. Therefore, the above petition is not sustainable.
5. Therefore, the Hon'ble Court is respectfully prayed to dismiss the above petition with costs to be borne by this respondent.

III. Points:

Whether the petition under Order 22 Rule 4 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 filed the present application stating that the 8th defendant, Sachithanantham, died on 14.05.2022 leaving behind his wife Thenmozhi, his daughters Bakkiyalakshmi and Bharathi, and his son Baskaran as his legal heirs, and that unless they are impleaded as parties, the adjudication of the main suit cannot be effectively carried out. The petitioners further state that they came to know about the death of the said defendant only on 03.07.2023, since the death was not reported by the learned counsel appearing for him as required under Order 22 Rule 10-A CPC. Therefore, according to the petitioners, the delay of 323 days in filing the present application is bona fide, not willful or wanton, and is caused only because of lack of knowledge. The petitioners contend that unless the legal representatives of the deceased are brought on record, they would suffer

irreparable hardship as the suit would stand abated against the deceased defendant and the matter would not be adjudicated on merits.

2. The contesting respondents 2 to 5, in their counter, dispute the maintainability of the petition. Their objection is that the petitioners have not produced any documentary proof of the death of the 8th defendant, such as a death certificate, nor any legal heirship certificate to prove that the proposed parties are indeed the legal representatives of the deceased. They contend that without such basic materials, the petition cannot be entertained. They also argue that the petition is belated and that the petitioners have failed to discharge their burden of proving sufficient cause for condonation of delay. Therefore, according to the respondents, the petition is liable to be dismissed with costs.
3. It is not in dispute that under Order 22 Rule 4 CPC, when a defendant dies and the right to sue survives, the legal representatives of the deceased defendant must be brought on record within 90 days, failing which the suit abates against the deceased party. However, such abatement can be set aside under Order 22 Rule 9 CPC if sufficient cause is shown for the delay. The settled principle is that while strict proof is required for establishing the fact of death and the heirship of the proposed legal representatives, the expression "sufficient cause" must receive a liberal construction to advance substantial justice. The object of the provision is not to punish parties for a bona fide lapse but to ensure that the lis is adjudicated on merits with all necessary parties on record.
4. In the present case, the petitioners have clearly pleaded that they came to know of the death of the 8th defendant only on 03.07.2023. Their explanation is that the advocate for the deceased did not report the death to the Court as required under Order 22 Rule 10-A CPC, and as such the petitioners were unaware. This explanation, though not supported by documentary proof of the date of knowledge, cannot be said to be mala fide or deliberately false. The delay of 323 days is no doubt considerable, but it is attributable to the lapse in

communication of the death. The law leans in favour of condoning such lapses rather than allowing substantive rights to be defeated without trial.

5. As regards the respondents' objection about absence of proof of death and heirship, it is true that the petitioners have not annexed such documents at the time of filing. However, this defect is curable. The Court can always direct the petitioners to produce the death certificate and prima facie proof of legal heirship at the time of impleading. The non-filing of such documents cannot by itself render the petition non-maintainable, particularly when the death of the 8th defendant itself is not disputed by the respondents.
6. **Therefore, this Court is of the view that the petitioners have shown sufficient cause for the delay and that the implead of the legal representatives of the deceased 8th defendant is necessary for proper adjudication of the suit. Thus by it is just and necessary to implead the legal representatives of the deceased 8th defendant in the main suit. Hence this petition filed under order 22 rule 4 deserves to be allowed and no cost.**

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**