

IN THE COURT OF SUBORDINATE JUDGE : LALGUDI

Present : Tmt.R.Mohana, B.L.,

Subordinate Judge, Lalgudi

Dated Friday, the 05th day of June - 2026

I.A No.1/2025 AS.No.115/2018

(CNR.No.TNTP180008732017)

Valarmathi

.....Petitioner/Appellant

- Vs -

1. Nagarajan (Died)

..Respondent/Defendant

2. Thavamani

3. Sivagama sundari

4. Nagarathinam

5. Jeevarathinam

6. Marimuthu

7. Selvarani

8. Selvi

9. Veerapadran

....2 to 9 Respondents/proposed parties

This petition came up before this court for final hearing on 22.04.2026 in the presence of the Learned Counsels Thiru.T.Stalin - advocate for the petitioner and of Thiru.P.Murugesan - advocate for the 2 to 9 respondents and 1st respondent died and

upon perusing the case records and having stood over for consideration before this court till this day, today this court hereby delivers the following. . .

ORDER

The Petitioner has filed this Petition Under section 5 of Limitation Act, pleaded to pass an order condone the delay of 433 days in filing petition to set aside the abatement petition.

2. The brief averments of the Petition -

The petitioner is the appellant/plaintiff in the main appeal. The petitioner have preferred this appeal as against the decree and Judgment in OS.No.132/2018 dated 13.04.2016 on the file of Principal District Munsiff and Judicial Magistrate Lalgudi, Trichirappalli. Pending appeal it is learnt that the sole respondent Mr. Nagarajan passed away on 19.04.2024 leaving behind i) Thavamani, W/o. Late. Nagarajan, aged 72 years Second wife, ii) Sivagama Sundari, D/o. Late. Nagarajan, aged 40 years- Daughter through second wife. The legal heirs of Nagarajan through first wife Ponnammal are iii) Nagarathinam, D/o.Late.Nagarjan, aged 65 years, iv)Jeevarathinam, D/o.Late.Nagarajan, aged 63 years, v) Marimuthu S/o.Late. Nagarajan, aged 62 years, vi) Selvarani, D/o.Late. Nagarajan, aged 59 years, Vii) Selvi, D/o. Late. Nagarajan, aged 57 years, Veerapadram, S/o.Late.Nagarajan, aged 55 years who all are residing at 20/37, Pillaiyar Koil Street, Poovalur, Lalgudi Taluk, Trichy District. In the interest of Justice, all the legal heirs have to be arrayed as 3 - 9 respondents in this appeal. The details of

the legal heirs of the deceased Nagarajan is not available with her. Recently the respondent Counsel gave a memo by describing the details of deceased Nagarajan. The suit was abated due to non impleading of legal heirs of the deceased sole respondent. There is a necessity arose to file a petition to set aside the abatement. Since the abatement petition was not filed within the prescribed time, delay occurred. The petitioner have been advised to file a petition to condone the delay of 433 days in filing set aside the abatement petition. Hence this petition if not allowed they will be put to irreparable loss and hardship.

3. Gist of Counter -

The petition is false, frivolous and is liable to be dismissed. The petitioner is not entitled to any relief. The averments made in the affidavit are all denied. The petitioner is put to strict proof of the same. The petitioner have not mentioned any valid reason for the delay of 428 days delay. The petitioner is residing in the next house of these respondents. The main suit itself a boundary dispute between these respondents and the petitioner. The petitioner well aware of the legal heir particulars since the petitioner as well as these respondents are belonging to same village and community. The petitioner in order to drag on the matter, let the appeal for abatement and filed this petition after a delay of 428 days. The petitioner just abuse the process of Court. It is therefore, prays that this Hon'ble Court may be pleased to dismiss the petitioner with heavy costs.

4. There is no oral and documentary evidence let in by both sides.

5. Whether the petition is allowed or not?

6. The Learned Counsel for the Petitioner contends that the delay occurred due to a lack of particulars of legal heirs of the deceased respondents and immediate legal awareness regarding procedural timelines and subsequent health and livelihood struggles and the delay is neither willful nor deliberate and it is necessary to allow this Petition for final adjudication and hence, this Petition may be allowed by condoning the delay.

7. Conversely, The Learned Counsel for the respondents / the proposed respondents 2 to 9 vehemently oppose the application through a detailed counter-affidavit, arguing that since the Petitioner resides in the immediate adjacent house of the deceased respondent within the same village and community, the factum of death was known from day one. It is further argued that the Petitioner has failed to offer a plausible day-to-day explanation for the 433-days delay, rendering the application a wanton attempt to drag on the proceedings and hence this Petition may be dismissed.

8. Heard both sides and perused the materials available on record. This is suit for permanent injunction filed by the Petitioner herein/Appellant/Plaintiff which was dismissed by the trial Court and the Present Petitioner/Plaintiff has preferred appeal by challenging the trial Court Judgment and Decree. This Appeal is pending for more than 7 years.

9. There is a valid and strong point of the Proposed parties/respondents that both the parties were living right next door to each other in a village. It is natural to expect

them to know about a death in the immediate neighborhood. The Petitioner was definitely careless and did not pay close attention to managing their Court case. However, the law clearly states that Courts should always try to look at the big picture and deliver real justice based on the facts of the case, rather than closing a case permanently due to technical mistakes or timing errors.

10. A person usually has nothing to gain by purposely delaying their own law suit. Even though the Petitioner's explanation does not perfectly account for every single day of the delay, dismissing this application would permanently shut the doors of justice for them. On the other hand, allowing the petition will ensure that the dispute will fully, fairly, and finally be decided with all the correct family members present. To be completely fair to both sides and to correct the Petitioner's lack of speed, the trouble caused to the new respondents can be made right by making the Petitioner pay a small monetary fine. As such this Petition may be allowed on condition to pay the cost of Rs1000/- by the Petitioner to the respondents within the stipulated period fixed by this Court.

In the result, this petition is allowed on condition that the Petitioner has to pay a cost of Rs.1,000/- (Rupees One Thousand Only) directly to the proposed respondents 2 to 9, or to their Counsel on record on or before 19.06.2026, if any deviation this Petition will automatically stand dismissed without any further hearings or orders from this Court. Call on 22.06.2026.

Dictated to steno-typist, typed by her directly in computer, corrected and pronounced by me in open court on this the **05th** day of **June 2026**.

SUB JUDGE
LALGUDI.

List of Documents

Petitioner side witness and document - Nil

Respondents side witness and document – Nil

SUB JUDGE
LALGUDI.

Sub Court, Lalgudi

IA.No.1/2025 in AS.No.115/2018

Fair/ Draft Orders

Dated – 05.06.2026