

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI

**Present : Tmt. R.D. Gurulakshmi, M.A., M.L., P.G.D.I & C.L.,
District Munsif, Tiruttani.**

Dated the Monday of 17th Day of March 2025

I.A.No.2/2025 in OS.No.41/2015

(CNR.No.TNTR21-000057-2015)

...

1. Vellathur Mudali(died)
2. S.K. Arumugam
3. P.S. Krishnan
4. Krishtappa Mudali
5. Durasamy Mudaliar (died)
6. Venkatesan
7. N.C. Subiyan

... Petitioners/ Plaintiffs

/Versus/

- 1.K. Arumuthu (died)
2. N. Krishnan
3. K.A. Pillaiyar
4. P.G. Nagalingam
5. Thangavel (died)
6. P.A. Vinayagam
7. Vedatachala Mudali
8. A.V. Palani
9. P.G. Sanjeevi
10. G.R. Kumaravel
11. P.S. Durvasalu
12. P.N. Ganesan
13. P.A. Srinivasan
14. N.V. Subramani
15. K. Haribabu
16. P.R. Balaraman
17. N.K. Annadurai
18. M.G. Devarajan
19. K.V. Chidambaram
20. K.A. Srinivasan
21. N. Boopalan
22. P.R. Darmalingam
23. P.K. Elumalai

... 1 to 7 Respondents/1 to 7 Defendants

24. P.T. Vinayagam
 25. A.E. Jayaraman
 26. Kuttti Arunagiri ... 8to26 Respondents/ Proposed Defendants 8to26
 27. Parijatham
 28. Nirmala
 29. Narayanasamy
 30. Srinivasan ... 27to30 Respondents/ Proposed Defendants 27to30

This petition came up before me for the final hearing on 25.02.2025 in the presence of M/s. V.Venkatesan, N. Balaji. P.Pichaimani, Advocates for Petitioners/ Plaintiffs, P1, P5, R1, R5 were died, M/s. V. Kishore Reddy, A. Akila, R. Revathi, R. Indu Prabha, Advocates for 27 to 30 Respondents/ 27 to 30 defendants, 2 to 26 Respondents were exparty. Upon hearing both sides and having stood over for consideration till this day, this court delivered the following:

ORDER

The petition is filed by the petitioner under order 22 Rule 2 of CPC to record the death of 1st and 5th petitioners and permit the other surviving petitioners to proceed the above case.

1. **Petition averments in brief:-**

The suit is filed by the petitioners on the representative capacity of public interest of the group leaders of 'B' party against the respondents who are the group leaders of 'A' party. While the suit is pending the 1st petitioner died on 08.03.2023, 5th petitioner died on 26.08.2015. The 1st respondent died on 02.01.2024, the 5th respondent died on 26.06.2022. There is no necessity to implead the legalheirs of the 1st & 5th Petitioners as such the suit is abated in respect of the 1st & 5th Petitioners. Therefore the petitioner filed this petition to record the death of 1st and 5th petitioners and permit the other surviving petitioners to proceed the above suit.

2. **Counter filed on behalf of the 27 to 30 respondents in brief:-**

This petition is not maintainable either in law or on facts. There is no single reason mentioned in the affidavit for the delay caused to file the petitions in the above suit to implead the legal heirs of the defendants 1 and 5. The petitioners are also

residing in the same village where the respondents are residing, hence the petitioners are well aware about the death of the 1st and 5th defendants. The petitioner has failed to explain each and every delay with reasonable cause by the petitioners for not filing this petition in time. This petition is highly belated one and this petition is to be dismissed in limini. This petition is filed by the petitioners at the time of trial stage to drag on the proceedings. There is no banofides and no merits in this petition. Hence, the petition has liable to be dismissed with cost.

3. Point for determination:-

Whether the petitioners are entitled to the relief as prayed for? or not?

4. Heard both side. According to the petitioners, during the pendency of the suit, the 1st petitioner died on 08.03.2023 and the 5th petitioner died on 26.08.2015. The suit is filed by the petitioners on the representative capacity of public interest. There is no necessity to implead the legalheirs of the 1st & 5th Petitioners. Therefore the petitioners pray to allow the petition.

5. Respondents resisted the petition by contending that the petitioner has failed to explain each and every day delay with reasonable cause by the petitioners for not filing this petition in time. This petition is highly belated one. This petition is filed by the petitioners at the time of trial stage to drag on the proceedings. There is no banofides and no merits in this petition. Hence, the respondents pray to dismiss the petition with costs.

6. The petitioners alleged that the 1st and 5th petitioners were died during the pendency of the suit. This suit was filed by the petitioners on the representative capacity of public interest. There is no necessity to implead the legalheirs of the 1st & 5th Petitioners. Therefore the petitioner filed this petition to record the death of 1st and 5th petitioners and permit the other surviving petitioners to proceed the above suit. The 1st petitioner died on 08.03.2023 and the 5th petitioner died on 26.08.2015 and this petition filed on 19.12.2024 with the delay of 10 years. No reasons explained for the delay. Further petitioners proceeded the original suit without reporting the 5th petitioner who was died 10 years before. Considering the fact and circumstances, this

Court is of view that this petition has to be allowed on terms.

In the result, this petition is allowed on condition that the petitioner has to pay a cost of Rs.1000/- to the 27 to 30 Respondents on or before 24.03.2025 failing which this petition stands dismissed. Call on 24.03.2025.

Dictated to my Steno – Typist, typed by her directly in computer, corrected and pronounced by me in open court, this the 17th day of March 2025.

District Munsif,
Tiruttani.

Petitioners & Respondents side Exhibits and Witnesses :- Nil

District Munsif,
Tiruttani.