

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.4/2025 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. Subiyar

... 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

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

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
24. P.T. Vinayagam
25. A.E. Jayaraman
26. Kutti 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 9 of CPC to set aside the abatement against the 1st defendant.

1. Petition averments in brief:-

The suit is filed by the plaintiffs on the representative capacity of public interest of the group leaders of 'B' party against the defendants who are the group leaders of 'A' party. While the suit is pending the 1st plaintiff died on 08.03.2023, 5th plaintiff died on 26.08.2015. On the defendants side the 1st defendant died on

02.01.2024, the 5th defendants died on 26.06.2022. The above suit was filed by the petitioners on the representative capacity there is no necessity to implead the legalheirs of the 1st & 5th Plaintiffs.

(b) In respect of the deceased defendants there is no necessity to implead the legalheirs of the 5th defendant. Since the suit property is in the name of one Narayanasamy Mudali who was the grandfather of 1st defendant. The 1st defendant died leaving behind his wife Parijatham, daughter Nirmala and two sons namely Narayanasamy and Srinivasan. Hence the petitioner filed this petition to set aside the abatement against the 1st defendant.

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 day delay with reasonable caused 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, while the suit is pending, the 1st defendant died leaving behind his wife Parijatham, daughter Nirmala, two sons namely Narayanasamy and Srinivasan. Hence the petitioner filed this petition to set aside the abatement against the 1st defendant. 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. This petition filed to set aside the abatement in impleading the legalheirs of deceased 1st defendant. There is a delay in 192 days delay in filing this petition, which was not properly explained by the petitioners. This Court is of view that the proposed parties are the proper and necessaries parties to the suit and they have to be impleaded for proper adjudication of the case. Hence, in the interest of justice, to prevent multiplicity of proceedings, to provide petitioners an opportunity to prove their case and for proper adjudication of the case this petition has to be allowed on cost.

In the result, this petition is allowed on condition that the petitioner has to pay a cost of Rs.500/- 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.