

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE (FTC),
VELLORE, VELLORE DISTRICT.

PRESENT: Thiru.P.V.Sandilyan, M.L.,
Additional District Judge (FTC), Vellore.

Friday, the 17th day of July, 2026

I.A. No.7/2026, I.A. No.8/2026 & I.A. No.9/2026

in

I.A.No.4/2022

in

O.S. No.12/2019

1. Tmt.Dilli (died)	
rep. by her son B.Netaji	. . . Petitioner/Plaintiff
2. Tr. C.P.Bakthavachalam	
3. Tr. B.Netaji	
4. Mr.Prasath	
5. Tr.Vishnukumar	. . . Petitioners/Proposed parties
Versus	
Tmt.V.Prabavathi	. . . Respondent/defendant

These petitions came up before this court for final hearing on 10.07.2026 in the presence of Thiru.G.Giridharan, Tr.C.Saranraj, Counsels for the Petitioners; Thiru.K.M.Boopathi, Counsel for the Respondent; and upon hearing the arguments of both sides, upon perusal of case records and having stood over for consideration till this date, this court delivers the following:-

COMMON ORDER

I.A.No.7/2026

This petition has been filed by the Petitioners/Proposed Parties under Sec.5 of Limitation Act to condone the delay of 1068 days in filing a petition to set aside the order of dismiss for default passed on 30.11.2022 in I.A.No.4/2022 in O.S.No.12/2019.

I.A.No.8/2026

This petition has been filed by the Petitioners/Proposed Parties under Sec.151 of C.P.C. to set aside the order of dismiss for default passed on 30.11.2022 in I.A.No.4/2022 in O.S.No.12/2019.

I.A.No.9/2026

This petition has been filed by the Petitioners/Proposed Parties under Order XXII Rule 3 of C.P.C. to implead the proposed parties to the legal heirs of the deceased 1st petitioner / plaintiff in O.S.No.12/2019.

2. The averments in the affidavit filed by the petitioner in

I.A.No.7/2026 are as follows:-

The 3rd petitioner's mother had filed the suit to cancel the settlement deed dated 26.11.2018 executed in favour of the respondent, to grant permanent injunction against the respondent/ defendant, her men, relatives & other men not to create any encumbrance in respect of suit property for costs of the suit and to grant such other suitable orders as deem fit in the circumstances of the case.

As such his mother Tmt.Dillibai had died on 14.07.2022 pending proceeding intestate. As such the petitioners along with the respondent, are the surviving legal heirs of the deceased original petitioner. The petitioners are continuing the suit filed by his mother against the respondent. Hence it is therefore for complete adjudication they are to be arrayed as parties after the death of his mother in enabling us to continue the suit where his mother had left to fulfill her wishes & as such the cause of action does survive on us. Further there does not arise any abatement the reason being already one of the legal heir of the deceased Dillibai is already on record as the respondent. As such the suit for taking to steps for his mother. Such the petitioner could not give my advocate specific instruction to file steps for his mother. The petitioner not well aware of the court formalities and further as such if the suit is not restore, his mothers last wish would be half done. The petitioner would like to see to that her wish is fulfilled. As such the respondent would not be prejudiced of any sort to any extent, further it is just continuation of what his mother had done. The petitioner had filed a petition to restore the suit on file of this court, since it was dismissed for default on 30.11.2022 and the same had also got restored. The petitioner had filed a petition to implead the necessary parties to the suit and it had got admitted in I.A.No.4/2022. Pending the suit adjudication his mother / 1st petitioner had died. The death was recorded in the suit, but by oversight, he did not take steps to bring us on record in the above petition to contest the petition.

The same was only by oversight and he did not give his advocate specific instructions to bring us on record in the petition to implead the necessary parties to the suit. As such they have already come on record in the suit side, this petition is only a consequential or a formality petition which is to be allowed. As such the respondent would not be prejudiced of any sort to any extent. The petitioner also filing a petition to bring ourselves on file on this court. The petitioner not filing a petition to take steps for his deceased mother in time is neither will or wanton and this court shall condone it and render justice. Even though there is delay in the petitioner filing a petition to restore the I.A.No.4/2022 in the above suit, is neither willful nor wanton. The petitioner not well acquainted with the procedural formalities of court also, the petitioner do not know about when to file a petition within time limit. The petitioner contenting the above petition is need of the hour, on discussing him with his advocate on record to get along with the trial he had reminded that, they need to file a petition to restore the above IA to bring the proposed on file of the suit for complete adjudication. Hence prays to allow this petition.

3. The averments in the affidavit filed by the petitioner in I.A.No.8/2026 are as follows:-

The 2nd petitioner's mother was represented by him had filed the suit to cancel the settlement deed dated 26.11.2018 executed in favour of the respondent, to grant permanent injunction against the respondent/defendant, her

men, relatives & other men not to create any encumbrance in respect of the suit property, for costs the suit and to grant such other suitable orders as deem fit in the circumstances of the case. As such his mother Tmt.Dillibai had died on 14.07.2022 pending proceeding intestate. As such the petitioners along with the respondent, are the surviving legal heirs of the deceased original petitioner. The petitioners are continuing the suit filed by his mother against the respondent. Hence it is therefore for complete adjudication they are to be arrayed as parties after the death of his mother in enabling us to continue the suit where his mother had left to fulfill her wishes & as such the cause of action does survive on us. Further there does not arise any abatement the reason being already one of the legal heir of the deceased Dillibai is already on record as the respondent. As such the suit for taking to steps for his mother. Such the petitioner could not give my advocate specific instruction to file steps for his mother. The petitioner not well aware of the court formalities and further as such if the suit is not restore, his mothers last wish would be half done. The petitioner would like to see to that her wish is fulfilled. As such the respondent would not prejudiced of any sort to any extent, further it is just continuation of what his mother had done. The petitioner had filed a petition to restore the suit on file of this court, since it was dismissed for default on 30.11.2022 and the same had also got restored. The petitioner had filed a petitioner to implead the necessary parties to the suit and it had got admitted in I.A.No.4/2022. Pending the suit adjudication his mother / 1st

petitioner had died. The death was recorded in the suit, but by oversight, he did not take steps to bring us on record in the above petition to contest the petition. The same was only by oversight and he did not give his advocate specific instructions to bring us on record in the petition to implead the necessary parties to the suit. As such they have already come on record in the suit side, this petition is only a consequential or a formality petition which is to be allowed. As such the respondent would not be prejudiced of any sort to any extent. The petitioner also filing a petition to bring ourselves on file on this court. The petitioner not filing a petition to take steps for his deceased mother in time is neither will or wanton and this court shall condone it and render justice. Hence prays to allow this petition.

4. The averments in the affidavit filed by the petitioner in I.A.No.9/2026 are as follows:-

2.1 The 2nd petitioner's mother was represented by him had filed the suit to cancel the settlement deed dated 26.11.2018 executed in favour of the respondent, to grant permanent injunction against the respondent/defendant, her men, relatives & other men not to create any encumbrance in respect of the suit property, for costs the suit and to grant such other suitable orders as deem fit in the circumstances of the case. As such his mother Tmt.Dillibai had died on 14.07.2022 pending proceeding intestate. As such the petitioners along with the respondent, are the surviving legal heirs of the deceased original petitioner. The

petitioners are continuing the suit filed by his mother against the respondent. Hence it is therefore for complete adjudication they are to be arrayed as parties after the death of his mother in enabling us to continue the suit where his mother had left to fulfill her wishes & as such the cause of action does survive on us. Further there does not arise any abatement the reason being already one of the legal heir of the deceased Dillibai is already on record as the respondent. The petitioner filed a petition to restore the suit on file of this court since it was dismissed for default on 30.11.2022. The petitioner had filed a petition to implead the necessary parties to the suit and it had got admitted in I.A.No.4/2022. Pending the suit adjudication his mother / 1st petitioner had died. The death was recorded in the suit, but by oversight, he did not take steps to bring us on record in the above petition to contest the petition. The same was only by oversight and he did not give his advocate specific instructions to bring us on record in the petition to implead the necessary parties to the suit. As such they are already come on record in the suit side, this petition is only a consequential or a formality petition which is to be allowed. As such the respondent would not be prejudiced of any sort to any extent. Hence prays to allow this petition.

5. Brief averments of the Counter filed by the respondent in I.A.No.7/2026 are as follows:-

The petition is not sustainable either in law or on facts of the case. The allegation made in the affidavit namely the petitioners did not take steps to bring us on record in the above petition to contest the petition and the same was only by oversight and the petitioners did not give specific instructions to his counsel to bring us on record in the petition to implead the necessary parties to the suit all are totally false. The suit filed for declaration to cancel the settlement deed dated 26.11.2018 and for permanent injunction against him her and the 1st plaintiff was died on 14.07.2022 and memo filed by the petitioners and the same was duly reported before this court. However, no steps were taken within the statutory period to implead the legal heirs and hence the suit stood abated as against the deceased 1st plaintiff. Thereafter the suit came to be dismissed for default on 30.11.2022 along with the pending interlocutory application I.A.No.4/2022. Subsequently the petitioners filed an application to restore the suit and this court was allowed on 26.03.2024. While restoring the suit, this court has permitted the impleaded of legal heirs of the deceased 1st plaintiff in the main suit. Even after such restoration no steps were taken in the dismissed in I.A.4/2022 to implead the legal heirs and the present application is filed by belatedly without any justification. The petitioners have not shown any sufficient cause for such delay. The petitioners have failed to give sufficient and valid reasons through documentary evidence to condone such a huge day of 1067 days and they failed to explain delay of each and every day. The main suit

on 26.03.2024, the petitioners did not choose to seek restoration of the said I.A.No.4/2022. The petitioners failed to restore the above said interlocutory application, the present attempt to receive the same at this belated stage is legally unsustainable. The mere allegations set outs in the present application itself will clearly shows that the intention of the petitioners is only to drag on the proceedings and harass this respondent, they have approached this court with clean hands. there is no merit to bonafide in the present petition. Hence prays to dismiss the petition.

6. Brief averments of the Counter filed by the respondent in I.A.No.8/2026 are as follows:-

The petition is not sustainable either in law or on facts of the case. The allegation made in the affidavit namely the petitioners did not take steps to bring us on record in the above petition to contest the petition and the same was only by oversight and the petitioners did not give specific instructions to his counsel to bring us on record in the petition to implead the necessary parties to the suit all are totally false. The suit filed for declaration to cancel the settlement deed dated 26.11.2018 and for permanent injunction against him her and the 1st plaintiff was died on 14.07.2022 and memo filed by the petitioners and the same was duly reported before this court. However, no steps were taken within the statutory period to implead the legal heirs and hence the suit stood abated as against the deceased 1st plaintiff. Thereafter the suit came to be dismissed for

default on 30.11.2022 along with the pending interlocutory application I.A.No.4/2022. Subsequently the petitioners filed an application to restore the suit and this court was allowed on 26.03.2024. While restoring the suit, this court has permitted the impleaded of legal heirs of the deceased 1st plaintiff in the main suit. Even after such restoration no steps were taken in the dismissed in I.A.4/2022 to implead the legal heirs and the present application is filed by belatedly without any justification. At the outset the provision invoked by the petitioner is wholly misconceived and not maintainable in law. When a specific remedy is available under the provisions of the code of civil procedure code for restoration of an application dismissed for default, the petitioner cannot invoke the inherent powers under section 151 of CPC, it is a settled principal of law that inherent powers cannot be exercised when specific provision exist. The petitioners were fully aware of the earlier dismissal of the said I.A.No.4/2022 and the procedural requirements to restore the same. However, they have deliberately failed to take appropriate steps at the relevant time. While restoring the main suit on 26.03.2024, the petitioners did not choose to seek restoration of the said I.A.No.4/2022. The petitioners failed to restore the above said interlocutory application, the present attempt to receive the same at this belated stage is legally unsustainable. The mere allegations set outs in the present application itself will clearly shows that the intention of the petitioners is only to drag on the proceedings and harass this respondent, they have approached this

court with clean hands. there is no merit to bonafide in the present petition. Hence prays to dismiss the petition.

7. Brief averments of the Counter filed by the respondent in I.A.No.9/2026 are as follows:-

The petition is not sustainable either in law or on facts of the case. The allegation made in the affidavit namely the petitioners did not take steps to bring us on record in the above petition to contest the petition and the same was only by oversight and the petitioners did not give specific instructions to his counsel to bring us on record in the petition to implead the necessary parties to the suit all are totally false. The suit filed for declaration to cancel the settlement deed dated 26.11.2018 and for permanent injunction against him her and the 1st plaintiff was died on 14.07.2022 and memo filed by the petitioners and the same was duly reported before this court. However, no steps were taken within the statutory period to implead the legal heirs and hence the suit stood abated as against the deceased 1st plaintiff. Thereafter the suit came to be dismissed for default on 30.11.2022 along with the pending interlocutory application I.A.No.4/2022. Subsequently the petitioners filed an application to restore the suit and this court was allowed on 26.03.2024. While restoring the suit, this court has permitted the impleaded of legal heirs of the deceased 1st plaintiff in the main suit. Even after such restoration no steps were taken in the dismissed in I.A.4/2022 to implead the legal heirs and the present application is filed by

belatedly without any justification. The above said proposed parties are alleged to the deceased 1st plaintiff and now sought to be impleaded as legal heirs is false and incorrect and not proper legal representatives of the deceased 1st plaintiff. The petitioners have not produced relevant documents before this court. Hence prays to dismiss the petition.

8. Now, the point for consideration in this petition is, ***whether these petitions are to be allowed or not?***

9. Point:-

9.1 The petitioners filed this petition under section 5 of limitation Act to condone the delay of 1068 days in filing a petition to set aside the order of dismiss for default passed on 30.11.2022, Sec.151 of CPC petition to set aside the order of dismissed for default and petition under Order XXII Rule 3 of CPC to implead the proposed parties as legal heirs of the deceased first petitioner in I.A.No.4/2022 in O.S.No.12/2019.

9.2 Originally the suit filed by the first plaintiff to cancel the settlement deed dated 26.11.2018 executed by her in the name of the daughter/defendant and permanent injunctory relief not to create any encumbrance and for costs. The first petitioner was represented by her son. When the suit is in the stage of chief examination of DW1 on 05.08.2022 memo was filed by the petitioners that the first petitioner is died on 14.07.2022.

9.3 The petition to implead the proposed parties namely the sub registrar K.V.Kuppam, the District Registrar as defendants 2 and 3 was filed by the petitioners and it numbered as I.A.No.4/2022 on 25.03.2022.

9.4 In the impleading petition I.A.4/2022 memo was filed on 05.08.2022 to the effect that the first petitioner was died then the main, I.A.No.4/2022 it was posted for steps to the first petitioner, after sufficient opportunity on 30.11.2022 petition was dismissed as abated.

9.5 The reason for the delay of 1068 days in filing set aside the order of dismiss for default is however not convincing, any how the petitioners must be provided an opportunity to put forth their case.

9.6 It is rightly pointed out by the respondent in her counter in main I.A.No.4/2022 that in a suit for cancel the settlement deed as null and void it is not necessary for the sub registrar to implead them as a parties to the suit. The petitioners contention in the main I.A. that when this court comes to a conclusion that the document needs to be canceled the proposed parties are authorized officers to carry on with the cancellation of the document dated 26.11.2018 cannot be countenanced in view of Sec.31(2) of the specific relief act. If suit is decreed then the court direct the concern sub registrars to carryout the cancellation of the documents. Then as per Sec.31(2) of Specific Relief Act even the sub registrars were not added as the parties to the suit they are duty

bound to carryout the direction of the court however it is not the dispute in this I.A. to decide the parties to be impleaded as a defendant.

9.7 The petitioners got impleaded in the suit as legal heirs of the first plaintiff but for the reason best known to them they failed to take steps in the impleading petition in I.A.No.4/2022. The suit is in the stage of defendant side evidence, suit is of the year 2019, the contention of the respondent that the petitioners to drag the main suit endlessly, they failed to take steps in the impleading petition as a legal heirs of first petitioner.

9.8 Without going to merits the petitioner must be provided an opportunity to proceed the impleading petition in I.A. 4/2022, the delay in filing condone petition to set aside the abatement is condoned. When the delay to condone 1068 days is ordered to be allowed and the consequential petitions are hereby allowed.

In the result, these petitions in I.A.Nos.7/26, 8/26, 9/26, are hereby allowed. The petitioners are directed to take steps to amend in I.A.No.4/2022 without further dragging the proceedings endlessly. No cost.

Dictated by me to the Steno-Typist, directly and computerized by her, corrected and pronounced by me in open court this 17th day of July, 2026.

**Additional District Judge (FTC),
Vellore.**

Both side Witnesses and Exhibits:- - NIL -

**Additional District Judge (FTC),
Vellore.**