

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

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

Monday, the 20th day of April, 2026
I.A.No.6 of 2025 IN O.S. No.107/2014

1. R.Govindaraj Achari (Died)
2. Ashokan Achari
Defendants . . . Petitioners/1, 4

//Versus//

1. A.Bawarlal (Died)
2. L.Anand Singhvi
3. B.Rajendira Kumar
4. B.Jaswanth Kumar
5. Mrs.K.Pushpa
6. B.Suresh
7. B.Ramesh
8. Mrs.A.Premalatha . . . Plaintiffs

9. Navamani (Died) (D2)
10. Rajendra Achari (D3)
11. Bagiyalakshmi (D5)
12. Dhanalakshmi (D6)
13. Parameswari (D7) . . . Respondents

This petition came up before me for final hearing on 08.04.2026, in the presence of Tr.G.Ramachandran, Counsel for the Petitioners/1, 4 defendants and Tr.G.Jayachandran, Counsel for the 2 to 8 Respondents/Plaintiffs, 10 to 13 respondents set exparte, 1 and 9 respondents/plaintiffs are died, 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:-

ORDER

This petition has filed by the petitioner under Sec 151 of CPC to condone the delay that occurred in representing the returned original petition and affidavit in G.No.1274/2019 as per direction and order of Hon'ble High Court of Madras in CRP(PD) No.2250/2019 dated 12.07.2019 and number the same by permitting petitioner in this petition to implead as 2nd petitioner in the said petition in G.O.No.1274/2019 after recording the death of the original petitioner / original defendant in the said petition.

2. The brief petition averments of the petition :

The petitioner is the 4th defendant in the main suit. The original defendant Govindaraj Achari is his father and today on searching his old records t home, he traced out the documents filed by him along with this petition. The documents filed along with this petitioner are that his father deceased defendant filed an application in G.O.No.1274/2019 praying to take up the above suit for preliminary argument regarding the maintainability of the suit and the same was returned unnumbered and against which his father the deceased, defendant filed CRP (PD) No.2250/2019 on the filed of Hon'ble High Court of Madras and the same was allowed on 17.09.2019 directing this court to admit and number the above said petition and his father in the meantime became sick and hospitalized for long time and ultimately died at Rajiv Gandhi Government Hospital at Chennai, and hence because of his ill

health and failed to inform about the same to him and to his trial court advocate and today after tracing out the said documents, he handed over the same to him trial court advocate and filling the same along with this petition. The long delay occurred in representing the above petition is neither wilful nor wanton but due to the above said reasons. That the 3rd defendant separated from joint family long back and he is living separately and the defendants 5 to 7 got married and living in their husbands house and the petitioner was looking after his father and mother till their death and hence his father deceased defendant executed a Will in respect of the suit property and on his death the said Will came into effect and the petitioner being the absolute owner of the suit property is in exclusive possession and enjoyment of the suit property and hence he may be permitted to amend the above said petition in G.No.1274/2019 by impleading his as 2nd petitioner in the said petition after recording the death of the original petitioner original defendant in the said petition. Hence prays to condone the delay that occurred in representing the petition in G.No.1274/2019 as per direction and order of Hon'ble High Court of Madras in CRP(PD) No.2250/2019 dated 12.07.2019 and number the same by permitting petitioner in this petition to implead as 2nd petitioner in the said petition in G.O.No.1274/2019 after recording the death of the original petitioner / original defendant in the said petition as otherwise he will be put to hardship and loss.

3. The brief averments of the Counter filed by the 4th Respondent / 4th plaintiff and adopted 2, 3 & 5 to 8 respondents/plaintiffs are as follows:-

The petition filed by the petitioner is not maintainable either in law or on facts. The allegations made in the petition are malicious, baseless and created only for the purpose of filing of this petition. The petition filed by the petitioner / D1, D4 defendants under section 151 of CPC, this respondent vehemently opposing to condone the delay in representing the said petition in G.O.No.1274 of 2019 on the file of Principal District Court, Vellore. There is no such order to condone the delay in representing the returned original petitioner and affidavit in G.No.1274 of 2019 and also there is no order permitting 2nd petitioner in this petition to implead as 2nd petitioner in said petition in G.No. 1274 of 2019 and there is no order to Hon'ble High Court of Madras in CRP (PD) No.2250/2019 dated 12.07.2019 by recording death of the original petitioner/original defendant in the said petition in G.No.1274 of 2019. This petitioner as no locus standing to file this petition separately without adding all the other legal heirs of deceased 1st defendant Govindaraj Achari. This petitioner is not the sole legal heir of the deceased 1st defendant to succeed is estate. The petitioner as to file separate application to condone the delay in representing petition in G.No.1274 of 2019 and also to file separate application to file to record the death of the 1st petitioner/1st

defendant in the petition in G.No.1274 of 2019 and also file separate application to implead the 2nd petitioner/4th defendant in the petition in G.No.1274 of 2019. Without filing 3 separate applications the petitioner club all the prayers in one application that too without any order to Hon'ble High Court in Madras in CRP (PD) No.2250 of 2019 dated 12.07.2019. Hence this petition has to be dismissed in-limino at this stage itself with the cost of respondents/plaintiff 1 to 8. To drag on the proceeding in this suit after laps of 6 years after filing Chief affidavit this respondent after beginning the trial in this suit in the year 2019 itself. The petitioner never mentioned about the order of Hon'ble High Court in Madras in CRP (PD) No.2250 of 2019 dated 12.07.2019 in any of the additional written statement filed by the 2nd petitioner herein. Hence, prays to dismiss the petition.

4. There is no oral and documentary evidence on both sides.

5. The point for consideration in this petition is, **whether this petition is to be allowed or not?**

6. Point:-

6.1 The learned counsel for the petitioner would contend that the petitioner's father who is the deceased defendant filed an application for preliminary arguments after framing preliminary issue, "whether the suit is not maintainable for suppression of earlier suit, Degree and Judgment in O.S.No.22/2012 on the file of District Munsif Court Gudiyatham, dated

23.07.2012".

6.2 Further contented that the petition was returned for the reason suit is posted for PW1 cross stage, against which the petitioner father deceased 1st defendant preferred a CRP (PD) No.2250/2019, the Hon'ble High Court by allowing the CRP on 17.09.2019 with a direction to this court to number the returned petition and to dispose it on merits. Further, contented that his father was died after that only he found the returned petition and filing this petition to condone the delay of representing the returned petition and prayed to allow it.

6.3 The learned counsel for the respondent/plaintiffs contented that no such order of Hon'ble High Court in CRP to condone the delay in representing the returned petition in G.No.1274/2019 and no order permitting the 2nd petitioner to impleading him as 2nd petitioner and to record the death of original petitioner. The learned counsel for the plaintiff vehemently argued that the petitioner has no locus standi to file this petition without adding other legal heirs of the deceased 1st defendant and this petition ought to be dismissed for clubbing of prayers without the order of Hon'ble High Court in CRP, only to drag the petition, the petitioner alone filed this petition and prayed to dismiss it.

6.4 Originally the respondents 2 to 8 who are plaintiffs filed the suit for the Specific Performance against deceased 1st defendant based on the

unregistered sale agreement dated 16.07.2011 alleged to be executed by the deceased 1st defendant. The 1st petitioner/deceased defendant filed this petition to frame preliminary issue, that " whether the suit is not maintainable for suppression of earlier suit, degree and judgment in O.S.No.22/2012 on the file of District Munsif Court Gudiyatham, dated 23.07.2012".

6.5 The said petition was returned on 30.01.2019, 29.03.2019, 07.06.2019 and 24.06.2019. Later on the 1st Petitioner preferred CRP (PD) No.2250/2019 before the Hon'ble High Court on 12.07.2019 Hon'ble High Court directed this court to number the Interlocutory application and dispose it on merits and in accordance with law as expeditiously as possible.

6.6 In the affidavit accompanied with petition which represented before this court with Sec 151 CPC petition to condone the delay in representing G.No.1274/2019 on 23.04.2025, there is no whisper about when the 1st defendant/petitioner died, whether his death abated the petition, if so to condone the delay petition with set aside amendment petition not yet filed along with this petition. Further, in this representing condone delay petition the petitioner has not stated how many days delay occurred in representing this petition. Further, in this representing condone delay petition I.A.No.6/2025 the petitioner prayed further reliefs to implead him as the 2nd petitioner after recording the death of the deceased 1st petitioner. The other legal heirs of the deceased 1st defendant though they were added as LR's of

deceased 1st defendant in the suit not mentioned by this 2nd petitioner. In the delay representing petition the reliefs sought by the petitioner to impleading him as a 2nd petitioner after recording the death of original petitioner cannot be entertained and the petitioner to seek appropriate remedy by filing suitable petition, if advised for such relief.

6.7 The 2nd petitioner after a delay of 4 1/2 years now came with a petition to condone the delay of representing petition to frame preliminary issue. This court already on 12.04.2016 itself framed issue No.3,
(3) Whether the suit is barred in view of the judgment passed in O.S.No.22/2012 on the file of District Munsif Gudiyatham?

The deceased 1st Petitioner filed G.No.1274/2019 when the suit is at the cross examination of PW1. On perusal of G.No.1274/2019 petition, the petitioner stated that he had filed O.S.NO.22/2012 for the relief of permanent injunction against the plaintiff and decree was passed in his favour. Whether, the suppression of O.S.NO.22/2012 case by the plaintiff in this suit would create a bar under order 2 rule 2 to dismiss the plaint in the initial stage by framing preliminary issue and whether the suit filed by the petitioner in Gudiyatham for the relief of permanent injunction based on the unregistered sale agreement would create a bar for this plaintiff to claim Specific Performance are all the points to be determined in the G.NO.1274/2019 petition alone.

6.8 Mere on perusal of records it is crystal clear that the petitioner in

order to drag the proceedings at the stage of PW1 cross filed it and after getting direction from the Hon'ble High Court when the 1st defendant died his legal heirs impleaded in the suit, after 4 1/2 years without exercising his remedy now pressing the petition with inordinate delay, have to be compensated by way of terms. The petitioner must be provided an opportunity at the same time for the delay he must be ordered to pay cost to the respondents/plaintiffs.

In the result, petition is partly allowed and partly dismissed.

1) With regard to the 1st prayer to condone the delay of 4 1/2 years occurred in representing the petition in G.No.1274/2019 was ordered to be allowed on payment of cost of Rs.5,000/- to be paid by the petitioner to the respondents 2 to 8/ plaintiffs directly on or before 29.04.2026. Failing which this petition stands dismissed.

2) With regard to the prayers permit the petitioner to implead him as 2nd petitioner after recording the death of the 1st petitioner is dismissed. The petitioner has to take appropriate remedy to implead the LR's of deceased 1st petitioner/1st defendant by filing condone delay with set aside abatement petition, while representing the petition, if advised.

Call on 30.04.2026.

Dictated to Steno-typist directly, typed by her through computer, corrected and pronounced by me in open court, this the 20th day of April 2026.

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

Annexure : Nil.

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