

**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 23rd day of February, 2026

I.A. No.4/2025, I.A. No.5/2025 & I.A. No.6/2025

in

O.S. No.162/2021

Parties in I.A. No.4/2025

Jayaraman . . . Petitioner/Plaintiff

Versus

1. Murugesan
2. Margabandhu (Died) . . . Respondents/defendants
3. Kala
4. Karpagam
5. Srinivasan . . . Proposed Parties/Legal Representatives
of the deceased Margabandhu

Parties in I.A. No.5/2025

Jayaraman . . . Petitioner/Plaintiff

Versus

1. Murugesan
2. Margabandhu (Died) . . . Respondents/defendants
3. Kala
4. Karpagam
5. Srinivasan . . . Proposed Parties/Legal Heirs of the
deceased Margabandhu

Parties in I.A. No.6/2025

Jayaraman . . . Petitioner/Plaintiff

Versus

1. Murugesan
2. Margabandhu (Died) . . . Respondents/Defendants
3. Kala
4. Karpagam
5. Srinivasan . . . Respondents

These petitions came up before this court for final hearing on 18.02.2026, in the presence of Tr.R.J.Mohan, Counsel for the Petitioner; Tr.P.K.Sridhar, Counsel for the 1st Respondent, Tr.M.Balaji, Counsel for the Proposed Parties/Legal Representatives of the deceased Margabandhu and the 2nd Respondent was Died and the 1st respondent set exparte for non filing of counter 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

Prayer in I.A. No.4/2025:

This petition has been filed by the petitioner/plaintiff under Section 5 of the limitation act to condone the delay of 861days for filing Order 22 Rule 4 of C.P.C.

Prayer in I.A. No.5/2025:

This petition has been filed by the petitioner/plaintiff under Order 22 Rule 9 of C.P.C. R/W 151 of C.P.C. to condone the non filing of abatement petition on time.

Prayer in I.A. No.6/2025:

This petition has been filed by the petitioner/plaintiff under Order 22 Rule 4 R/W 151 of C.P.C. implead the respondents 3 to 5 as legal heirs of deceased Margabandhu respondent no.2 in the suit.

2. The brief averments of the affidavit in I.A. No.4/2025 are as follows:-

2.1 The petitioner is the petitioner and the plaintiff in the suit. The petitioner filed the suit against the 1st and 2nd defendants. During the pendency of the suit, the 2nd defendant, Margabandhu died on 20.02.2022 and leaving behind his wife Kala, Karpagam and his son Srinivasan as his sole legal heirs, who succeeded to his estate, and that the petitioner filed a separate petition to implead them.

2.2 The petitioner mentioned that the suit had abated due to the death of the 2nd defendant and for non-taking of steps within time, which was neither willful nor wanton. There was a delay of 861 days in filing the petition to implead the legal heirs of the deceased 2nd defendant and that the delay condonation petition seeking to condone the delay of 861 days in filing the legal representatives application stating that if the petition was not allowed, he would suffer irreparable loss and hardship. Therefore, the petitioner prayed to condone the delay of 861 days in filing Order 22 Rule 4 C.P.C.

3. The brief averments of the affidavit in I.A. No.5/2025 are as follows:-

3.1 The petitioner is the petitioner and the plaintiff in the suit. The petitioner filed the suit against the 1st and 2nd defendants and that during the pendency of the suit, the 2nd defendant, Margabandhu died on 20.02.2022 and leaving behind his wife Kala, Karpagam and his son Srinivasan as his sole legal heirs to succeed to his estate. Therefore, the petitioner had filed a separate petition to implead them.

3.2 The petitioner submitted that the suit had abated due to the death of the 2nd defendant and for non-taking of steps within the prescribed time, which was neither willful nor wanton. There was a delay of 861 days in filing the implead petition to bring the legal heirs on record as the legal representatives of the deceased 2nd defendant and that the delay was beyond his control. Therefore, the petitioner filed a delay condonation petition to condone the delay of 861 days in filing the legal representative application stating that if the petition was not allowed the petitioner suffer irreparable loss and hardship. Therefore, the petitioner prayed to condone the non filing of abatement petition within time.

4. The brief averments of the affidavit in I.A. No.6/2025 are as follows:-

4.1 The petitioner is the petitioner and the plaintiff in the suit. The petitioner filed this petition to implead the respondents 3 to 5 as legal heirs of the

deceased 2nd respondent Margabandhu. The petitioner submitted that the 2nd defendant, Margabandhu died on 20.02.2022 and that Kala, the wife of the deceased, Karpagam, his daughter and Srinivasan his son were the surviving legal heirs and successors to the estate of the deceased 2nd respondent. The respondents 3 to 5 were necessary parties to the suit for proper adjudication.

4.2 The petitioner mentioned that if the said legal heirs were not impleaded he would suffer great loss and hardship and that it was just and necessary to implead them in the suit. Therefore, the petitioner prayed to implead the respondents 3 to 5 as the legal heirs of the deceased 2nd respondent in the suit.

4. The brief averments of the Counter Objection in I.A. Nos.4/2025, 5/2025 and 6/2025 filed by the Respondents 3 to 5 are as follows:-

The petition is not sustainable either in law or on facts. The petitioner has not stated the reason to condone the delay of 861 days and there is no document produced and prayed to dismiss the petition with costs of this respondent.

5. The counsel for the Respondents 3 to 5 filed a Memo stating that the counter filed in I.A. No.4/2025 in O.S. No.162/2021 may be treated as counter for I.A. No.5/2025 and I.A. No.6/2025 in O.S. No.162/2021 and the same was recorded.

6. There is no oral evidence, no documents marked on both sides.

7. The point for consideration in these petitions are, ***whether these petitions (1) I.A. No.4/2025 - condone the delay of 861 days in filing Order 22 Rule 4 C.P.C. petition, (2) I.A. No.5/2025 - condone the non-filing of abatement petition in time and (3) I.A. No.6/2025 - permit the petitioner to implead the respondents 3 to 5 who are the legal heirs of deceased 2nd respondent, viz.Margabandhu in the above suit are to be allowed as prayed for?***

8. Point:-

10.1 The petitioner is the plaintiff in the main suit. In the above suit the 2nd respondent being the 2nd defendant had died on 20.02.2022 leaving his wife 1.Kala, his daughter 2. Karpagam and his son 3. Srinivas as his legal heirs. The petitioner contended that the suit has abated in view of the date of death of the deceased 2nd defendant for non-taking of steps in time for condonation of abatement and so there is a delay of 861 days in filing delay excuse petition. Further contended that the legal heirs of the deceased 2nd defendant are necessary parties in the suit for proper adjudication.

10.2 The learned counsel appearing for the respondents 3 to 5 contended that there is no proper reason or document filed to condone the delay and prayed to dismiss the petition.

10.3 The suit filed by the plaintiff for the relief of specific performance. The legal heirs of the 2nd respondent/defendant if not impleaded then it will lead

to multiplicity of proceedings and proper adjudication of the suit will be affected. The necessary parties may be allowed to contest the suit and the merits to be decided based on full fledged trial after impleading all necessary parties. The delay is not properly explained by the petitioner, that alone will not be a reason for dismissing the petition.

10.4 The Limitation Act does not presume that whenever delay occurs, it is intentional and/or wilful. This court is expected to decide the matter on merits by providing opportunities to all and not throwing a case without adjudicating it on merits. It is a settled position of law that "when grant of justice is pitted against technically, latter will gave way to the former. Above all, pedantic approach of insisting to explain each days delay will be contrary to the spirit and purpose of administering justice. All the party gets after condonation of delay is hearing on the matter and a decision on merits."

10.5 The reason stated by the petitioner in condone the delay of filing petition to set aside abatement U/s.5 of Limitation Act is convinced and the delay is condoned. There is no dispute with regard to the relationship between the deceased and the proposed respondents. This suit is filed for specific performance as against the 1st and 2nd respondents/defendants, so without impleading the legal heirs of the deceased after his demise, the suit cannot be proceeded properly. If the proposed respondents are not added to the suit, the suit will be bad for non-joinder of parties. So, recognizing the legal heirs of deceased

2nd defendant is very much essential, without them the suit cannot be proceeded. The respondents 3 to 5 also do not make any serious objections to allow the application filed by the petitioners. Consequently, set aside the abatement in filing Legal Representative petition Under Order XXII Rule 9 is allowed. In view of the above, the legal heirs of deceased 2nd defendant, i.e. respondents 3 to 5 are ordered to be impleaded in the suit and as such this Order XXII Rule 4 impleading petition is also allowed as prayed for.

In the result, these petitions are allowed as prayed for. The parties shall bear their own cost.

Dictated to the Steno-Typist, typed by him directly, corrected and pronounced by me in the open Court this the 23rd day of February, 2026.

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

Both side Witnesses and Exhibits:- - NIL -

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