

**IN THE COURT OF DISTRICT MUNSIF, KATPADI, VELLORE DISTRICT
PRESENT: THIRU. K.VENKATESAN, B.A., B.L.,
DISTRICT MUNSIF, KATPADI.**

Friday, this the 20th Day of January – 2023

**I.A.No. 4 of 2022
In
O.S.No. 152 of 2014
(CNR.No.TNVL230000612014)**

1. Saraswathi
2. Vijayalakshmi
3. Gajendran
4. Surendran

....Petitioners/Plaintiffs

-Vs-

1. Subramani Achari (died)
2. Mani Achari
3. Chinnasamy Achari

...Respondents/Defendants

4. Senjulaakshmi
5. Rajesh
6. Samundi
7. Lalli @ Lalitha

.....Respondents/Legal Heirs of the deceased 1st defendant

This petition has come up today before this Court for orders, and upon hearing the arguments of Thiru. S.Lalithkumar, the Counsel for the Petitioners, and Thiru. V.Thukkaram, the Counsel for the Respondents and 2 to 7 Respondents have not filed their counter and were set exparte on 09.12.2022, and upon perusing the petition and the entire case records, and having stood before this court for consideration till this date, this court delivers the following:-

ORDER

This petition has been filed by the petitioners/plaintiffs under Section 5 of Limitation Act, to condone the delay of 169 days in filing the petition to set aside the abatement of the above suit as against the 1st defendant.

Records perused. This petition has been filed by the plaintiffs to condone delay in filing set aside the abatement and to implead legal heirs of 1st defendant who died on 09.10.2021. Notice given to R2 to R7 but they failed to file counter and they set exparte. On perusal of records, 1st defendant died during pendency of the suit and the plaintiffs filed this petition to implead his legal heirs with the delay of 169 days to set aside the abatement of the suit against 1st defendant. This suit is filed for the relief of declaration and permanent injunction. In order to continue the suit and in order to proper adjudication, the legal heirs of the deceased has to be impleaded as parties in the suit which is helpful to decide the matter on merits and the said legal heirs are necessary and proper parties to the suit proceedings. The reason stated by the plaintiffs for not filing within the stipulated period is acceptable one. Though, this petition filed with enormous delay of 169 days, Considering the above facts, and circumstances of the case, and in order to proper adjudication of the suit, in the interest of justice, this court is inclined to allow this petition. No costs.

Pronounced by me in the open court, this the 20th day of January 2023.

DISTRICT MUNSIF
KATPADI