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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2026

CORAM

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

C.M.P. Nos. 6316, 6318 and 6323 of 2023
in S.A.No.745 of 2007

Karuppan (Deceased)
S/o.Thalaivirichan

Kandhaswamy (Deceased)
S/o.Thalaivirichan

1. Chinnathayee,
   W/o.Kandhaswamy,
   Perumbakkam Village,
   Chengam Taluk.

2. Muthu,
   S/o. Kandasamy,

   Chinnapaiyan (Died on 21.05.2011)
   S/o. Kandasamy,

3. Utharambal,
   W/o. Late. Balaraman,
   D/o. Kandhasamy,
   Perumbakkam Village,
   Chengam Taluk.

4. Anjala,
   W/o. Elangovan,
   D/o. Kandasamy,
   Perumbakkam Village,
   Chengam Taluk.

5. Sudha,
   D/o. Kandasamy,
   Perumbakkam Village,
   Chengam Taluk.

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6. Selvi,
   D/o. Kandasamy,
   Perumbakkam Village,
   Chengam Taluk.

...Petitioner Nos.1 to 6/
Appellant Nos.1 to 8 in all CMPs

7. Vellachi,
   W/o. Karuppan,
   No. 299, Indra Nagar,
   Perumbakkam,
   Pandithapttu,
   Thiruvannamalai – 606 603.

8. Periyapappa,
   D/o. Karuppan,
   No. 48, Durais Nagar,
   Bargur,
   Krishnagiri – 635 104.

9. Nadupappa,
   D/o. Karuppan,
   No. 2-57, Perumbakkam,
   Thiruvannamalai – 606 603.

10. Kanthamani,
    D/o. Karuppan,
    No. 968, Gopalapuram Kotta,
    MelSirupakkampudur,
    Kilsirupakkam – 606 707.

11. Chinnapillai,
    D/o. Karuppan,
    No. 327, Mariyamman Kovil Street,
    Moththakkal Post - 606708.

12. Malliga,
    D/o. Karuppan,
    No. 470, Keelvanakkambadi,
    Tiruvannamalai – 606 707.

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13. Ezhumalai,
S/o. Karuppan,
No. 48A, Durais Nagar,
Bargur,
Krishnagiri – 635 104.

...Petitioner Nos.7 to 13/
Proposed Appellant Nos.9 to 15 in all CMPs

(The impleading Petitioner Nos.8 to 14 are the legal heirs of the deceased Karuppan)

14. Shyamala,
W/o. Late. Chinnapaiyan,
No. 338, Pillaiyar Kovil Street,
Iyangunam Village,
Kilpennathur Taluk,
Thiruvannamalai – 606 611.

15. Abitha,
D/o. Late. Chinnapaiyan,
No.338, Pillaiyar Kovil Street,
Iyangunam Village,
Kilpennathur Taluk,
Thiruvannamalai – 606 611.

16. Viswa,
S/o. Late. Chinnapaiyan,
No. 338, Pillaiyar Kovil Street,
Iyangunam Village,
Kilpennathur Taluk,
Thiruvannamalai – 606 611.

17. Selva,
S/o. Late. Chinnapaiyan,
No. 338, Pillaiyar Kovil Street,
Iyangunam Village,
Kilpennathur Taluk,
Thiruvannamalai – 606 611.

...Petitioner Nos.14 to 17/
Proposed Appellant Nos.16 to 19 in all CMPs

(The Petitioner Nos.14 to 17 are the legal heirs of Late Chinnapaiyan who died on 21.05.2011)

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Vs

G. Kuppusamy (Died on 15.05.2021),
S/O.Late Govindasamy

1. Dhasarathi Ammal,
   W/o Gopal Gounder,
   Pallipatty Village,
   Chengam Taluk.

2. Banumathiammal,
   W/o Sadagoppan,
   Perumbakkam Village,
   Chengam Taluk

3. Rajamani,
   S/o Raju Naicker,
   Perumpakkam Village,
   Chengam Taluk

4. Manivannan,
   S/o Raju Naicker,
   Jagannatha Pillai Street,
   No.3, Kilsangarampalayam,
   Vellore Town.

5. Perumal,
   D/o Raju Naicker,
   W/o Subramani,
   No.19, VOC.Nagar,
   8th Street,
   Tiruvannamalai Town.

6. Kannan,
   S/o.Late.Raman,
   Perumbakkam Village,
   Chengam Taluk.

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7. Manickam,
   S/o.Late.Raman,
   Perumbakkam Village,
   Chengam Taluk.

8. Saraswathi,
   W/o.Late.Arumugam,
   Pallipattu Village,
   Chengam Taluk.

9. Ranjani,
   D/o.Late.Arumugam, W/o.Ravi,
   Pallipattu Village,
   Chengam Taluk.

10. Raviraj,
    S/o.Late.Arumugam,
    Pallipattu Village,
    Chengam Taluk.

11. Ramanan,
    S/o.Late.Arumugam,
    Pallipattu Village,
    Chengam Taluk.

12. Balaji,
    S/o.Late.Arumugam,
    Pallipattu Village,
    Chengam Taluk.

...Respondent Nos.1 to 12/
Respondent Nos.1 to 13 in all CMPs

13. Rajeshwari,
    W/o.Late.Kuppusamy,
    residing at Door No.75, Main Road,
    Perumbakkam Village,
    Chengam Taluk.

14. Vasudevan,
    S/o.Late.Kuppusamy,
    residing at Door No.75, Main Road,
    Perumbakkam Village,
    Chengam Taluk.

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15.Sivakumar,
S/o.Late.Kuppusamy,
residing at Door No.75, Main Road,
Perumbakkam Village,
Chengam Taluk.

16.Jagatheesan,
S/o.Late.Kuppusamy,
residing at Door No.75, Main Road,
Perumbakkam Village,
Chengam Taluk.

17.Bhuvaneshwari,
D/o.Late.Kuppusamy,
residing at Door No.75, Main Road,
Perumbakkam Village,
Chengam Taluk.

…Respondent Nos.13 to 17/
Proposed Respondents 14 to 18 in all CMPs

(Respondent Nos.13 to 17 are the
Legal Heirs of late.Kuppusamy)

Prayer in C.M.P.No. 6316 of 2023: Civil Miscellaneous Petition filed under Section 5 of the Limitation Act, 1963, praying to condone the delay of 5532 days in filing the petition for setting aside the abatement of the appeal in S.A.No.745 of 2007 on the file of this Court that caused due to the death of late Karuppan, the 1st Appellant in the above Second Appeal.

Prayer in C.M.P.No. 6318 of 2023: Civil Miscellaneous Petition filed under Order XXII Rule 9 of the Code of Civil Procedure, 1908, praying to set aside the abatement caused due to the death of late Karuppan, the 1st Appellant in the above Second Appeal.

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Prayer in C.M.P. No. 6323 of 2023: Civil Miscellaneous Petition filed under Order XXII Rule 3 of the Code of Civil Procedure, 1908, praying to bring on record the legal heirs of late Karuppan, the 1st Appellant viz., Mrs. Vellachi, W/o.Late Karuppan, residing at No.299, Indra Nagar, Perumbakkam, Tiruvannamalai-606 603, Mrs.Periyapappa, D/o.Late Karuppan, residing at No.48, Durais Nagar, Bargur, Krishnagiri-635 104, Mrs.Nadupappa D/o.Late Karuppan, residing at No.2-57, Perumbakkam, Tiruvannamalai-606 603, Mrs.Kanthamani, D/o.Late Karuppan, residing at No.968 Gopalapuram Kotta, Melsitupakkampudhur, kilsirupakkam, Tiruvannamalai-606 707, Mrs.Chinnapillai, D/o.Late Karuppan, residing at No.327, Mariyamman Koil Street, Mothakakkal, Tiruvannamalai-606 708, Mrs.Mallika, D/o.Late Karuppan, residing at No.570, Keelvanakkambadi, Tiruvannamalai-606 707, Ezhumalai, S/o.Late Karuppan, residing at No.48A, Durais Nagar, Bargur, Krishnagiri-635 104 and rank them as the Appellant Nos. 9 to 15 in the above Second Appeal.

For Petitioner(s) : Mr.P.Arivudai Nambi
in all CMPs

For Respondent(s): Mr.R. Karthikeyan
for R13 to R17
in all CMPs

COMMON ORDER

Mr.P.Arivudai Nambi, learned Counsel for the petitioners and Mr.R.Karthikeyan, Counsel for the Respondent Nos.13 to R17 are before this Court.

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2.These petitions have been filed to condone the delay of 5532 days in filling the petition to set aside the abatement, to set aside the abatement caused due to the death of the Appellant No.1 – Karuppan and to bring on record the legal representatives of the deceased Appellant No.1 as the Appellant Nos. 9 to 15 in the above Second Appeal.

3.This Court has perused the Case file.

4.Originally, the Appellants 2 and 3 filed S.A.No.745 of 2007. Thereafter, the Appellant No.2/Defendant No.3 – Kandhaswamy passed away leaving behind the Appellant Nos. 2 to 8 as his legal heirs / legal representatives and they were already brought on record in A.S.No.9 of 2004 before the First Appellate Court.

5.Feeling aggrieved by the Common Judgment and Decree dated 21.02.2007 passed by the First Appellate Court in A.S.Nos.3 and 9 of 2004, the Appellants therein have preferred these Second Appeals in S.A.Nos.744 and 745 of 2007.

6.The Counsel for the Respondent Nos.13 to R17 had strongly opposed to allow these applications.

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7.During the pendency of the Second Appeal, the Appellant No.1 – Karuppan passed away on 20.06.2007, leaving behind the Respondent Nos.7 to 13 as his legal heirs/legal representatives.

8.Considering the facts and circumstances, with a view to adhere the principles of natural justice fully, to decide the matter on merits, and in the interest of justice, this Court is inclined to allow these petitions.

9.Accordingly, these Civil Miscellaneous Petitions are allowed.

07-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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Note:

Registry is directed to carry out necessary amendment in the Memorandum of grounds of appeal and list the Second Appeal in the usual course.

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R.SAKTHIVEL J.

MPS

C.M.P. Nos. 6316, 6318 and 6323 of 2023
in S.A.No.745 of 2007

07-04-2026
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