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C.M.P.NOS.9071, 9073 & 9074 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-03-2026

CORAM:

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

**C.M.P.NOS.9071, 9073 & 9074 of 2024
IN S.A.NO.91 OF 2004**

C.M.P.No.9071 of 2024

Selvaraj (died)
by L.Rs.

...Appellant

1.Mahadevi
W/o. Selvaraj (Late)
residing at 2/546,
Periya Street,
Keezhamaligai,
Senthurai,
Ariyalur – 621 710.
(Formerly Perambalur District)

2.S.Vanniyamalar
W/o.S.Mahendiran,
No.86, Kondipatti,
Sirukalathur Post,
Sendurai Taluk,
Ariyalur District – 621 710
(Formerly Perambalur District)

...Petitioners/ Legal Representatives of
deceased Appellant

Vs

1.Govindasami
S/o.Chinnasami,
Keelamaligai Village,
Ponparappi Via, Sendurai Taluk,
Ariyalur District.
(Formerly Perambalur District).

2.Gopalsami
S/o.Seperumal,



Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(Formerly Perambalur District)

3.Illangovan
S/o.Samikannu,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(Formerly Perambalur District)

4.Anbalagan
S/o. Sivasami,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District
(Formerly Perambalur District)

5.Thirugnana Sambandam
S/o. Viswanathan,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(Formerly Perambalur District)

6.Subramaniam
S/o. Marimuthu,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(Formerly Perambalur District)

7.Rajendran
S/o. Kandasami,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(Formerly Perambalur District)

8.Jagadambal
D/o. Ganesan,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.



(Formerly Perambalur District)

9.Pachamuthu

S/o. Samikannu,

Ponparappi Via,

Sendurai Taluk,

Ariyalur District

(Formerly Perambalur District)

10.Manickathammal

W/o. Kandaswami,

Ponparappi Via,

Sendurai Taluk,

Ariyalur District.

(Formerly Perambalur District)

11.The District Collector,

(formerly Tiruchirappalli)

Now Perambalur District.

12.The Tahsildar,

Sendurai Taluk,

Sendurai.

...Respondents/Respondents

PRAYER

Civil Miscellaneous Petition filed under Section 5 of the Limitation Act, 1963 read with Section 151 of the Code of Civil Procedure, 1908, praying to condone the delay of 1715 days in filing the petition to set aside the abatement caused due to death of appellant Selvaraj in SA No.91 of 2004.

C.M.P.NO.9073 of 2024

Selvaraj (died)

by L.Rs

1.Mahadevi

W/o. Selvaraj, (Late),

residing at 2/546,

Periya Street,

Keezhamaligai,

Senthurai,

Ariyalur – 621 710.

(Formerly Perambalur District)

...Appellant

2.S.Vanniyamalar



W/o.S. Mahendiran,
No.86, Kondipatti,
Sirukalathur Post,
Sendurai Taluk,
Ariyalur District – 621 710.
(Formerly Perambalur District)

...Petitioners/Legal Representatives of
deceased Appellant

Vs

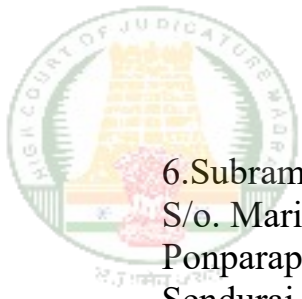
1.Govindasami
S/o. Chinnaasami,
Keelamaligai Village,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District).

2.Gopalsami
S/o. Seperumal,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

3.Illangovan
S/o. Samikannu,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

4.Anbalagan
S/o. Sivasami,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

5.Thirugnana Sambandam
S/o. Viswanathan,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)



6.Subramaniam
S/o. Marimuthu,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

7.Rajendran
S/o. Kandasami,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

8.Jagadambal
D/o. Ganesan,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

9.Pachamuthu
S/o. Samikannu,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

10.Manickathammal
W/o. Kandaswami,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

11.The District Collector
(formerly Tiruchirappalli)
Now Perambalur District.

12.The Tahsildar
Sendurai Taluk,
Sendurai.

...Respondents/Respondents



PRAYER

Civil Miscellaneous Petition filed under Order XXII Rule 9(2) of the Code of Civil Procedure, 1908, praying to set aside the abatement caused due to death of Appellant, namely Selvaraj.

C.M.P.NO.9074 of 2024

Selvaraj (died)

by L.Rs.

1.Mahadevi

W/o. Selvaraj (Late)

residing at 2/546,

Periya Street,

Keezhamaligai,

Senthurai,

Ariyalur – 621 710.

(formerly Perambalur District)

2.S.Vanniyamalar

W/o.S. Mahendiran,

No.86, Kondipatti,

Sirukalathur Post,

Sendurai Taluk,

Ariyalur District – 621 710

(formerly Perambalur District)

...Petitioners/Legal Representatives of the
deceased Appellant

Vs

1.Govindasami

S/o. Chinnasami,

Keelamaligai Village,

Ponparappi Via,

Sendurai Taluk,

Ariyalur District.

(formerly Perambalur District)

2.Gopalsami

S/o. Seperumal,



Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

3.Illangovan
S/o. Samikannu,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

4.Anbalagan
S/o. Sivasami,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

5.Thirugnana Sambandam
S/o. Viswanathan,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

6.Subramaniam
S/o. Marimuthu,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
(formerly Perambalur District)

7.Rajendran
S/o. Kandasami,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.
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D/o. Ganesan,
Ponparappi Via,
Sendurai Taluk,
Ariyalur District.



(formerly Perambalur District)

9.Pachamuthu

S/o. Samikannu,

Ponparappi Via,

Sendurai Taluk,

Ariyalur District.

(formerly Perambalur District)

10.Manickathammal

W/o. Kandaswami,

Ponparappi Via,

Sendurai Taluk,

Ariyalur District.

(formerly Perambalur District)

11.The District Collector

(formerly Tiruchirappalli)

Now Perambalur District.

12.The Tahsildar

Sendurai Taluk,

Sendurai.

...Respondents/Respondents

PRAYER

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 the deceased Selvaraj / Petitioners 1 and 2 and rank them as Appellants 2nd and 3rd Petitioners.

For Petitioners : Mr.P.Sanjay Gandhi

For Respondent(s): Mr.Kadarkarai for R3

COMMON ORDER

C.M.P.No.9071 of 2024 is filed to condone the delay of 1715 days in filing the Petition to set aside the abatement caused due to death of Appellant-Selvaraj.



2.C.M.P.No.9073 of 2024 is filed to set aside the abatement due to death of Appellant-Selvaraj.

3.C.M.P.No.9074 of 2024 is filed to bring on record the legal heirs of the deceased Selvaraj / Petitioners 1 and 2 and rank them as Appellants 2 and 3.

4.Heard Mr.P.Sanjay Gandhi, learned Counsel appearing for the Petitioners and Mr.S.Kadarkarai, learned Counsel appearing for the 3rd Respondent.

5.Learned Counsel for the Petitioners submits that the Sole Appellant passed away on February 18, 2019 leaving behind the Petitioners herein as his Legal Heir(s)/Legal Representative(s). He further submits that during the pendency of these Civil Miscellaneous Petitions, the 1st Petitioner, viz., Mahadevi passed away on March 09, 2025 leaving behind the 2nd Petitioner Vanniyamalar as her Legal Heir(s)/Legal Representative(s). To that effect, he has filed a memo dated March 30, 2026 containing the death certificate and legal heir certificate of the 1st Petitioner, Mahadevi.

6.Learned Counsel appearing for the 2nd Respondent filed a counter wherein averments made in the affidavits are denied. He further submits that



there is no sufficient reason assigned to condone the delay of 1715 days in filing petitions to set aside the abatement and bring on record the Legal Heir(s)/Legal Representative(s) of the deceased Appellant, namely, Selvaraj

7.The points that arises for consideration in these petitions is that whether the delay of 1715 days in filing the Petition to bring on record the Legal Heir(s)/Legal Representative(s) of the deceased Appellant is to be condoned or not.

8.This Court has perused the affidavits filed in support of these Petitions.

9.The Appellant is the Plaintiff before the Trial Court and filed a Suit for declaration and recovery of possession and the same was partly decreed.

10.Feeing aggrieved by the Decree and Judgment passed in O.S.No.1 of 1986 on the file of the District Munsiff Court, Ariyalur, the Plaintiff-Selvaraj has preferred an Appeal before the Sub Court, Ariyalur in A.S.No.194 of 1991. The said Appeal Suit was dismissed by Judgment and Decree dated October 16, 2000.

11.Feeing aggrieved by the Judgment and Decree, the Plaintiff therein has filed this Second Appeal.



12.It is settled law that while the Court shall approach the Petitions under Section 5 of the Limitation Act, 1963 with a view to adhere the principles of natural justice and in the interest of justice and with a view to decide the matter on merits, this Court is inclined to allow these Petitions. This Court is of the view that no prejudice would be caused on allowing these petitions. On the other hand, if these Petitions are not allowed, the property rights under Article 300-A of the Constitution of India would be affected. Considering the facts and circumstances of the case, these Petitions are allowed.

13.Registry is directed to carry out necessary amendment in the Memorandum of Grounds of Appeal.

30-03-2026

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R.SAKTHIVEL, J.

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**C.M.P.NOS.9071, 9073 & 9074 of 2024
IN S.A.NO.91 OF 2004**

30-03-2026