



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-12-2025

CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**CMP No.16874 of 2024, CMP No. 16877 of 2024,
& CMP No.16881 of 2024
in A.S.No. 615 of 2014**

1. Minor S. Sri Suriya
Rep by his guardian mother
Sundarambal @ Sumathi @ Srisumathi,
No.6, Krishnasamy Street, Municipal
Colony, Erode 638 011

Appellant in all CMP(s)

Vs

1. R.Senthil Kumar
O.No.1/134, New.No.151,
Kathirampatti Village,
Kathirampatti Post,
Erode 638 107.

2.R. Samiathal
O.No.1/134, N.No.151, Kathirampatti
Village, Kathirampatti Post,
Erode 638 107.

3.P. Poongodi
No.5, Podu Valasu, Goundachipalayam,
Vellode Via, Erode 638 112.

4.K. Saroja
No.80, Ezhilveedhi, Arul Velavan
Nagar, Sulai, Erode 638004.

Pavathal @ Papayammal (Deceased)
Old No.1/134, New No.151,



Kathirampatti Village, Kathirampatti
Post, Erode – 638 107.

5.N. Kalaiselvan

No.8, Ezhil Veedhi, Arul Nagar, Sulai,
Erode 638 107.

6.K. Palanisamy

S/o. Porappana Gounder, 1/134,
N.No.151, Kathirampatti Village,
Kathirampatti Post, Erode 638 107.

7.Sownthiram

S/o. Porappana Gounder, 1/134,
N.No.151, Kathirampatti Village,
Kathirampatti Post, Erode 638 107.

8.Mrs.Sivagami

W/o. Late. K.P. Ponnusamy,
D.No.199/6, Perundurai Main Road,
Veerappampalayam Privu,
Erode 638 009.

9.Mr.Rathna Kumar

S/o. K.P. Ponnusamy, D.No.199/6,
Perundurai Main Road,
Veerappampalayam Privu,
Erode 638 009.

Respondent in all CMP(s)

CMP No. 16874 of 2024

PRAYER

To condone the delay of 3086 days in filing the application to bring the legal heirs of deceased 5th Respondent in the above appeal in As No.615 of 2014 on the file of this honble Court.

CMP No. 16877 of 2024

PRAYER

To set aside the abatement of the Appeal against the 5th respondent in the above AS No.615 of 2014 on the file of this Honble Court.



CMP No. 16881 of 2024

PRAYER

To permit the Petitioner to Bring on the Respondents 6 to 9 herein as legal heirs of the deceased 5th Respondent as respondent in the above appeal in AS No.615 of 2014 on the file of this Honble Court.

For Appellant(s): Mr.V. Meenakshi Sundaram
(in all CMPs)

For Respondent: Mr.N.Manokaran
(For R1 to R4 & R6)
(in all CMPs)

R5 – Died
(in all CMPs)

COMMON ORDER

(Order of the Court was made by C.V.Karthikeyan J.)

The Civil Miscellaneous Petitions have been filed consequent to the death of the 5th respondent / Mrs.Pavathal @ Papayammal Pavathal @ Papayammal and to bring on record her Legal Representatives as further respondents 7, 8, 9, 10.

2. There is an enormous delay, which has been pointed out by the learned counsel for the respondents 1 to 4 and 6, with the complaint that the miscellaneous petitions have been deliberately dragged on by the appellant herein. It is contended that though the 5th respondent had died in May 2015 and



the details of her Legal Representatives has been forwarded on 28.09.2015, the appellant had taken an unduly long time to file applications to bring on record the Legal Representatives. In all these aspects, there has been a delay of more than 3000 days.

3. The learned counsel for the respondents raised an objection, contending that there is a deliberate attempt to drag on the proceedings.

4. In the affidavits filed to explain the reasons for the delay, it has been stated the deceased Pavathal @ Papayammal died on 26.05.2015 and the list of Legal Representatives had also been given. One of her Legal Representatives was Mr.K.P.Ponnusamy. Subsequently, he also died on 30.10.2015.

5. This necessitated bringing on record his Legal Representatives also. In the affidavit, it had been stated that the petitioner did not have any relationship or communication with the first respondent and therefore, the details of the Legal Representatives could not be furnished within a reasonable period of time. Thereafter, the present petitions came to be filed and in that process, there has been a delay.



6. A counter affidavit had been filed, raising very strong objections. The learned counsel also advanced arguments, claiming that the reasons assigned are not bonafide and stated that this Court should not take a lenient view, but rather take a very strict view in this matter.

7. It has also been stated that the respondents has filed I.A.No.1 of 2023 for passing a supplementary preliminary decree and that the petitioner had entered appearance on 25.09.2023. It has been further stated that the petitioner had also become major on 18.06.2024 itself. According to the respondents, the reasons stated for the delay are not correct. But however even in the application seeking supplementary preliminary decree, Legal Representatives of Pavathal @ Papayammal will have to be impleaded. The learned counsel is not very sure, whether the Legal Representatives have actually been impleaded.

8. We are deeply conscious of the delay involved, however some leverage has to be shown, considering that the suit is one for partition. Once partition has been granted for Item Nos.1, 2 and 3, holding that they are ancestral properties and denying the relief of Item Nos.4 and 5, the Appellate Court will necessarily have to examine both the denial of portion of Items Nos.4 & 5 and also the necessity for the Legal Representatives to prosecute the issues further. It is also significant to note that challenging the grant of partition in respect of Item



Nos.1, 2 and 3, no cross objections or appeal have been filed on behalf of the respondents.

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9. Naturally, the proposed Legal Representatives now would also be entitled to a share and they cannot be ousted from participating in the judicial proceedings merely because there has been a delay in filing applications to bring them on record. The respondent have also touched upon the issue of costs, but we would examine that particular aspect when the arguments in the appeal are heard and if the appeal is found to be devoid of merits, then appropriate costs can be imposed on the appellant for instituting a frivolous appeal, but at this stage, Legal Representatives deserve to be brought on record.

10. In view of all these reasons, the delay of 3086 days in filing the application to bring the legal heirs of the deceased 5th respondent in the appeal stands condoned and CMP.No.16874 of 2024 in AS.No.615 of 2014 stands allowed; The abatement caused due to the death of the 5th respondent is set aside and CMP.No.16877 of 2024 in AS.No.615 of 2014 stands allowed and the proposed respondents are impleaded as respondents 7 to 10 in AS.No.615 of 2014 and CMP.No.16881 of 2024 in AS.No.615 of 2014 stands allowed.

11. Registry is directed to carry out the necessary amendments in the



cause title, reflecting the death of the 5th respondent and bringing on record the proposed respondents as respondents 7, 8, 9 and 10, being the Legal Representatives of the deceased 5th respondent in A.S.No.615 of 2024.

(C.V.K., J.) (K.B., J.)
15-12-2025

Note to Registry:

Arguments in the appeal to be advanced on 06.01.2026. Hence, list A.S.No.615 of 2014 on 06.01.2026.

Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No

To

1.R.Senthil Kumar

O.No.1/134, N.No.151, Kathirampatti
Village, Kathirampatti Post, Erode 638
107.

2.R. Samiathal

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of 2024 in A.S.No.615 of 2014



C.V.KARTHIKEYAN J.
and
K.KUMARESH BABU J.

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