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IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 05-02-2026**

CORAM

**THE HON'BLE MR.JUSTICE S. SOUNTHAR**

**CRP No. 545 of 2026 and**

**CMP No.2892 of 2026**

1. Balakrishnan (Died) 1.Elaiya Alias Krishnaveni  
W/o. Late Balakrishnan, Mudhanai Village,  
Vriddhachalam Taluk, Cuddalore District.
2. Ponmani D/o. Late Balakrishnan,  
Mudhanai Village, Vriddhachalam Taluk,  
Cuddalore District.
3. Manivannan, S/o. Late Balakrishnan,  
Mudhanai Village, Vriddhachalam Taluk,  
Cuddalore District.
4. Jayamani, D/o. Late Balakrishnan,  
Mudhanai Village, Vriddhachalam Taluk,  
Cuddalore District.

..Petitioner(s)

Vs

Asaithambi, S/o. Thangarasu,  
North Street, Mudhanai Village,  
Vriddhachalam Taluk, Cuddalore District.

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and Decretal order dated 10.11.2025 made in IA No. 6 of 2025 in OS No. 242 of 2018 on the file of the Additional Subordinate Judge, Vriddhachalam by allowing this CRP.



WEB COPY

CRP No. 545 of 2



For Petitioner(s):

Mr. C.Munusamy

## **ORDER**

This Civil Revision Petition has been filed, challenging the order passed by the Trial Court, allowing the application filed by the respondent/plaintiff seeking to amend the plaint.

2. The respondent herein/ plaintiff filed a suit in O.S.No.242 of 2018 for recovery of money, based on the promissory note against one Balakrishnan/ sole defendant. Pending suit the said Balakrishnan died and the petitioners herein, who are the legal heirs of the Balakrishnan were brought on record as defendants 2 to 5. Subsequently, the instant amendment application was filed by the respondent seeking to amend the original prayer, which was for a direction to the sole defendant to pay the suit amount, by introducing the new prayer, seeking a direction to the defendants 2 to 5 (newly impleaded defendants) to pay the suit amount. The said amendment application was allowed by the Trial Court. Aggrieved by the same, the petitioners have come before this court.

3. The learned counsel for the petitioners would contend that after completion of trial and when the suit was posted for arguments, the instant



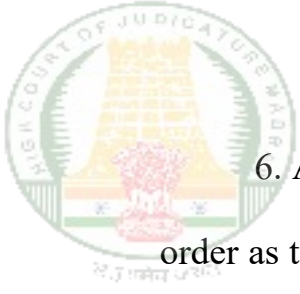
application has been filed by the respondent. Therefore, as per the proviso to Order VI Rule 17, the Trial Court ought not to have allowed the amendment application. He would further submit that the respondent/plaintiff was examined as PW1 and during his cross examination, he clearly admitted that the defendants 2 to 5 were not liable to pay any amount to the plaintiff in their individual capacity. In view of the same, the respondent is not entitled to amend the prayer seeking direction to the defendants 2 to 5 to pay the suit amount.

4. The suit was filed for recovery of money, based on the promissory note allegedly executed by one Balakrishnan/defendant and he died pending suit. Therefore, the petitioners 2 to 5 herein, who are the legal heirs of the said Balakrishnan's estate have been brought on record as defendants 2 to 5. Once the petitioners were brought on record as legal heirs of the deceased sole defendant, they are answerable to the suit prayer, even if there is no specific prayer against them. When the suit was filed, there was only one defendant, namely Balakrishnan. Hence, in the original prayer, the respondent/plaintiff sought a direction to the defendant to pay the amount. Now, by virtue of subsequent change of circumstances, the legal heirs of the deceased sole defendant have been brought on record, as the representatives of the estate of the deceased sole defendant. Therefore, the defendants 2 to 5 are liable to answer the suit claim to the extent that they are in possession of deceased



person's estate. The present amendment sought for by the respondent is only clarificatory in nature. Even, if no prayer is sought for against the petitioners/defendants 2 to 5, the court can always direct the legal heirs of the deceased sole defendant to pay the suit amount as representatives of the deceased person's estate. In view of the same, the bar under proviso to Order VI Rule 17 cannot be made applicable to the present amendment, which is merely clarificatory in nature.

5. As far as the contention raised by the learned counsel for the petitioners/defendants 2 to 5 that the respondent, who was examined as PW1 admitted that the defendants 2 to 5 were not liable to pay any amount to him in their individual capacity is concerned, the defendants 2 to 5 were brought on record only as legal representative of the deceased sole defendant. Therefore, they are answerable to the suit claim only in their capacity as legal heirs of the deceased defendant and they are not liable to pay any amount in their individual capacity. Therefore, the statement made by PW1 that the defendants 2 to 5 are not liable to pay any amount in their individual capacity is legally correct and the said statement by PW1 will not absolve the defendants 2 to 5 from the liability of paying suit amount as legal representatives of the deceased person's estate. Therefore, the second submission made by the learned counsel for the petitioners is also not acceptable to this court. Hence, I do not find any error in the impugned order passed by the Trial Court.



6. Accordingly, this civil revision petition is dismissed. There shall be no order as to costs. Connected miscellaneous petition is closed. Since amendment application was allowed by the Trial Court, the petitioners are entitled to file additional written statement and the parties are at liberty to lead further evidence, if it is necessary.

**05-02-2026**

Index: **Yes**

Speaking Order

Neutral Citation: **Yes**

MST

To

The Additional Subordinate Judge,  
Viriddhachalam.



WEB COPY

CRP No. 545 of 2



**S.SOUNTHAR, J.**

**MST**

**CRP No. 545 of 2026**

**05-02-2026**