



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.6.2026

CORAM

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CRP No. 4654 of 2025
and CMP.No.23560 of 2025**

K.Rayappan (Died)

1.R.Banumathi

D/o. Rayappan, 3/129B, Trichy Road,
Kangayampalayam, Sulur, Coimbatore.
and 2 Others

2. R.Sarojini

D/o. Rayappan, 3/129B, Trichy Road,
Kangayampalayam, Sulur, Coimbatore.

3. R.Subramanian

S/o. Rayappan, 3/129B, Trichy Road,
Kangayampalayam, Sulur, Coimbatore.

Petitioner(s)/Defendants

Vs

K.Chenniyapapn (Died)

Unnathal (died)

1.K.Ganesan

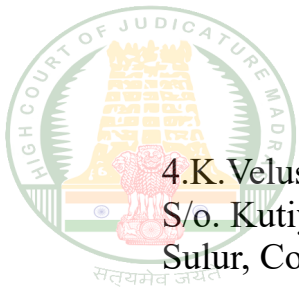
S/o. Kutiyappan, No. 3/69, Tirchy Road, Kangeyampalayam,
Sulur, Coimbatore.

2.K.Gunasekaran

S/o. Kutiyappan, No. 3/69, Tirchy Road, Kangeyampalayam,
Sulur, Coimbatore.

3.K.Balasubramaniam

S/o. Kutiyappan, No. 3/69, Tirchy Road, Kangeyampalayam,
Sulur, Coimbatore.



4.K.Velusamy

S/o. Kutiyappan, No. 3/69, Tirchy Road, Kangeyampalayam,
Sulur, Coimbatore.

5.K.Vanithamani

D/o. Kutiyappan, No. 3/69, Tirchy Road, Kangeyampalayam,
Sulur, Coimbatore.

6.Navamani

D/o. Chenniappan, No. 3/129, Kangeyampalayam, Sulur
Taluk, Coimbatore.

7.Santhanamani

D/o. Chenniappan, No. 3/129, Kangeyampalayam, Sulur
Taluk, Coimbatore.

8.R.Manimegalai

W/o. Ravichandran, No. 3/129, Kangeyampalayam, Sulur
Taluk, Coimbatore.

9.Loganathan

S/o. Ravichandran, No. 3/129, Kangeyampalayam, Sulur
Taluk, Coimbatore.

10.Tamilarasu

S/o. Ravichandran, No. 3/129, Kangeyampalayam, Sulur
Taluk, Coimbatore.

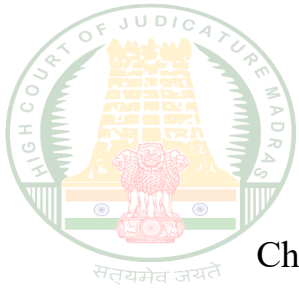
Respondent(s)/Plaintiffs

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the impugned fair and decretal order dated 13.08.2025 in IA No. 4 of 2025 in OS No. 144 of 2024 on the file of the District Munsif, Sulur and pass such further or other orders as this Honble Court.

For Petitioner(s): Mr.Abrar Md.Abdullah
for M/S.V.P.K.GOWTHAM
K.SUDHAKAR for petitioners

For Respondent(s): Mr.R.Siddharth for R1 to R5
Mr.Meiyappan Mohan
For R6 To R10

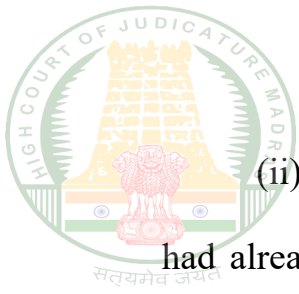
**ORDER**

Challenging the impugned order passed in I.A.No.4 of 2025 in O.S.No.144 of 2024, the respondents/defendants preferred this civil revision petition.

2. Before the trial court, the respondents/Plaintiffs filed I.A.No.4 of 2025 to condone the inordinate delay of 1433 days and 651 days to bring the legal heirs of the deceased 1st plaintiff and also his son Ravichandran. The said application filed under Section 5 of the Limitation Act was allowed by the Trial Judge, after hearing both sides. Aggrieved by the said allowing of the interlocutory application, this civil revision petition is filed.

3. The learned counsel for the revision petitioners/defendants raised the following grounds:-

(i) The court below failed to appreciate that as per Order XXII Rule 3 and Rule 9 CPC read with Articles 120 and 121 of the Limitation Act, the legal representatives ought to have been brought on record within the prescribed period of 90 days from the date of death of the deceased plaintiff and, in default, an application to set aside abatement ought to have been filed within 60 days thereafter. No such application was filed and, therefore, the suit stood abated as against the deceased 1st plaintiff.

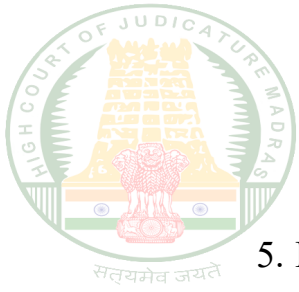


(ii) The court below failed to appreciate that the decree in A.S.No. 8/2015 had already attained finality against the deceased 1st respondent, who had not challenged the dismissal of his suit. Consequently, no right to sue survived upon his legal representatives, and the respondents 8 to 12 herein had no locus to be impleaded in the restored suit proceedings.

(iii) The court below has failed to apply the principle of constructive res judicata, inasmuch as the deceased 1st respondent, having allowed the rejection of plaint to become final against him, his legal representatives cannot seek to revive or re-agitate the same rights in the very same proceedings.

(iv) The reasons assigned by the trial court, namely that impleadment of legal representatives is necessary for adjudication on merits, are legally untenable, as the jurisdiction to condone delay must be exercised only on sufficient cause being established. Mere necessity or convenience cannot substitute for the statutory requirements of limitation and procedure.

4. Submitting the above grounds, learned counsel for the revision petitioners submits that the delay in filing I.A.No.4 of 2025 by the plaintiffs is not sufficiently explained. Besides the respondents/plaintiffs are not entitled to implead the legal heirs of the deceased 1st plaintiff as they have not preferred separate appeal against the findings of the 1st appeal. Therefore, learned counsel prayed to set aside the findings passed in I.A.No.4 of 2025.



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5. Learned counsel for the respondents/plaintiffs by way of reply submits that in the S.A.No.702 of 2017, the legal heirs of the deceased/1st plaintiff viz., Chenniappan are shown as respondents 5 to 9 and they also appeared before the appeal proceedings. Thereafter the said Second Appeal was contested. After contest by both sides, S.A.No.702 of 2017 was allowed by setting aside the rejection of plaint ordered by the trial court in I.A.No.254 of 2014 and was confirmed by the first appellate court in A.S.No.8 of 2015 dated 22.06.2016 and further directed the trial court to dispose of the suit within a period of six months from the date of receipt of a copy of the S.A.No.702 of 2017 judgment. After restoring the said suit in O.S.No.144 of 2024, as a legal heir of the 1st plaintiff, the plaintiffs filed application to condone the delay to implead the legal heirs of the 1st plaintiff and filed an application in I.A.No.4 of 2025 to implead the legal heirs of the deceased plaintiff and his deceased son Ravichandran. Since there was a delay, they filed application to condone the delay of 1433 days and 651 days to set aside the abatement. While condoning the delay, the trial Judge observed that considering the relief of declaration prayed in the suit, the legal heirs of the deceased parties are necessary parties and also considering the reasons stated in the petition that in the month of August, the above suit has been restored before the 1st Additional District Munsif, Coimbatore, and the 9th and 12th petitioners inadvertently filed the



application to implead themselves as parties in the suit without filing the proper application to condone the delay and set aside the abatement and the said application has been returned for some reasons and meanwhile due to territorial jurisdiction, the above suit has been transferred to the trial court and on 13.12.2024 the petitioners had represented the said impleading and numbered as I.A.No.1 of 2024 and therefore delay occurred and accordingly it was condoned.

6. Learned counsel for the revision petitioner submits that the 1st plaintiff has not challenged the findings of the first appeal, therefore, he is not entitled to contest the suit after restoration of the suit as well as the findings of the Second Appeal.

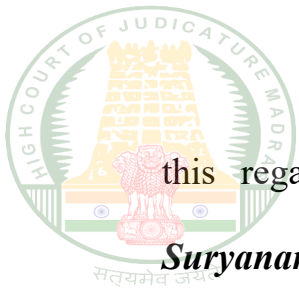
7. On a perusal of the entire findings of the S.A.No.702 of 2017, it would show that the said Second Appeal was preferred by the 2nd plaintiff and the 1st plaintiff was shown as D-4 and on his death, his legal heirs were impleaded as defendants 5 to 9 and their counsel also heard before the Second Appeal proceedings. Furthermore, the entire Second Appeal proceedings findings clearly reveals that for both plaintiffs 1 and 2, the entire issues were decided and not for 2nd plaintiff alone. Though the 1st plaintiff has not filed a separate appeal, he was shown as R4 to R9 and R5 to R9 being legal heirs of R4-1st plaintiff. On



the death of 1st plaintiff, his legal heirs were impleaded in the Second Appeal No.702 of 2017. Therefore, the findings of the Second Appeal will bind both the plaintiffs, thereby, suit was restored rightly against both 1st and 2nd plaintiff. At this stage, the legal contention raised by the revision petitioners/defendants is not sustainable. Furthermore, the respondents contend by relying on the authority that once the legal heirs are impleaded in one of the interlocutory proceedings, it will enure to the benefit of impleadment in all subsequent suit proceedings. To that effect, the learned counsel relied on **(2023) 2 SCC 473 [Maringmei Acham Vs. M.Maringmei Khuripou]**, wherein it is held as follows:-

“Death of party and bringing of LRs on record – Substitution of LRs at stage of hearing of appeal arising out of interlocutory order of trial court.”

8. Considering the aforesaid ratio, and in view of the fact that the legal heirs of the deceased first plaintiff were already impleaded in the second appeal proceedings and in furtherance of the findings of the second appeal judgment, the Original Suit being restored and that the said legal heirs had already been brought on record in the subsequent stage of the proceedings, the said authority is squarely applicable to the facts of the case. Furthermore, the learned counsel for the respondents submits that the court shall take a liberal approach and the court can consider liberally with regard to setting aside the abatement and in

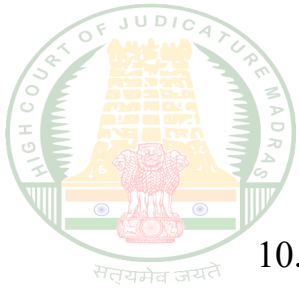


this regard, relied on the decision reported in **2009(4)CTC 286 Katari Suryanarayana and Others Vs. Koppiseti Subba Rao and Others**, wherein, it

is held as under:-

“ Abatement of appeal-delay of 2381 and 2601 days- applicatin for condonation of delay in filing Applications for setting aside order of abatement to be considered liberally – Exceptions to rule – Parties to dispute, neighbours – Dispute over right to use a lane which connects their respective houses – Held, in such circumstances difficult to appreciate that appellant was not aware of dates of death of respondents – Moreover, difficult to appreciate that parties not in touch with their advocates for ten years – appellants literates and fighting cases for years – Ignorance of legal consequences in itself not sufficient to condone delay – Held, High Court rightly concluded that no sufficient cause shown for condonation of delay – Not fit case for exercise of discretionary jurisdiction. “

9. In view of the above reasonings, the findings of the trial court needs no interference. Already this court in S.A.No.702 of 2017 fixed six months time to dispose of the suit by judgment dated 18.04.2024. Therefore, the trial court is directed to dispose of the suit as expeditiously as possible.



10. This civil revision petition is dismissed as it lacks merits. No costs.

Consequently, connected miscellaneous petition is closed.

23-6-2026

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The District Munsif, Sulur

2. The Section Officer, V.R. Section, High Court, Madras.



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T.V.THAMILSELVI J.

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