

**IN THE COURT OF THE VII ADDITIONAL DISTRICT JUDGE,
DODDABALLAPURA**

Dated this the 23rd day of August 2021,

PRESENT

**SRI C. CHANDRASEKHAR, LL.M.,
IV Additional District & Sessions Judge,
Doddaballapura.**

R.A.No.10009/2020

APPELENT : Sri. Muniraju
S/o Late Ramaiah,
Aged about 51 years,
R/at: Hanabe Village,
Doddabelavangala Hobli,
Doddaballapura Taluk.

(By Sri.H.M. Madhusudhan, Adv.)

V/s.

RESPONDENTS :

1. Smt. Siddamma
W/o Hanumantharayappa
Aged about 60 years,
2. Sri. Revanna
S/o Late Ramaiah
Aged about 52 years,
3. Smt. Annapoornamma
W/o Late Shivanna
Aged about 45 years
4. Sri. Nagaraju
S/o Late Ramaiah,
Aged about 50 years,
5. Sri. Manjunatha
S/o Late Ramaiah,
Aged about 46 years,
6. Smt. Sujatha,
W/o Shivanna

Aged about 43 years,

7. Sri. H.P. Rajanna
S/o Papaiah,
Aged about 52 years,

All are residing at:
Hanabe Village,
Doddabelavangala Hobli,
Doddaballapura Taluk.

(R1- by Sri. T.N. Balaji)
(R2,4 & 5- By Smt. B.S.Rekha)
(R7 by- Sri.T.H. Chikkavenkategowda)
(R3 & 6- Exparte)

ORDER ON I.A.NO.I

This application is filed by the appellant under Section 5 of Limitation Act, praying to condone delay of 95 days in preferring the appeal.

2. In the annexed affidavit, the appellant has stated on oath that he was not keeping good health and therefore, he could not contact his counsel nor make any arrangements to file the appeal in time. The delay caused in filing the appeal is bonafide reason beyond his control and the same should be condoned by this Court. If the appeal is not condoned he will be put to great hardship and inconvenience. Wherefore it is prayed to allow the application and condone the delay.

3. The respondents have not filed any objections to the above application.

4. In view of the above facts and circumstances of the case, the points that arise for my consideration are:

1. Whether the appellant has urged sufficient grounds in I.A.No.I filed

under Section 5 of Limitation Act for condoning the delay in preferring the appeal?

2. What Order?

5. After the matter was posted for enquiry on I.A.No.I, the appellant got examined as PW-1 and got marked 2 documents as Exs.P1 and P2. No evidence was adduced by respondents.

6. Heard the learned counsel for appellants/applicants and respondents

7. My findings on the above points are as follows:

Point No.1: In the Affirmative,

Point No.2: As per the final order,

for the following:

REASONS

8. **Point No.1:** It is the case of the appellant that he was not keeping good health and therefore, there are about 95 days delay in filing the appeal. He has also given evidence that he is having good grounds to urge before this Court and therefore prays to condone the delay. In support of his evidence of ill-health, the appellant/PW1 has produced Ex.P2/Medical Certificate. Though the author of this document is not examined, it is pertinent to note that PW1 was not cross examined by the respondents. Incidentally, they have not filed objections to delay condonation application.

9. In ***State of Karnataka v/s Moideen Kunhi reported in AIR 2009 SC-2577***, there was delay of more than 6,500 days from the original order and about 300 days delay from the order in review

petition. It was observed by the Hon'ble Supreme court that the expression "sufficient cause" must receive liberal construction so as to advance substantial justice and it is the duty of the court to protect public justice and further held that the appeal was liable to be condoned subject to payment of costs. Since sufficient cause given in this case by the appellant can be given liberal construction in order to advance substantial justice, I am of the opinion that the delay of 95 days can be condoned by imposing some costs. No harm or injustice would be caused to the respondents, if the delay is condoned while admitting the appeal for hearing on merits by imposing some costs.

10 Hon'ble High Court in the case of ***Rangappa and Others /vs/ Nagarappa and others 2016(2) KCCR 1689*** has held that while considering the application for condonation of delay, the Court has to be pragmatic and not pedantic. It is further observed that delay caused due to ignorance of law and poverty in cases involving immovable property, an opportunity of condoning the delay has to be given instead of dismissing the appeal.

11. For all these reasons, I am of the opinion that appellant/applicant has shown "sufficient cause" for delay in filing the appeal and as such the delay condonation application deserves to be allowed. Consequently, I answer point for consideration in the **Affirmative**.

12. **Point No.2:** In view of the above reasons and finding given to point No.1, I proceed to pass the following:

ORDER

I.A.No.I filed by the Appellant under Section 5 of Limitation Act is allowed on payment of cost of Rs. 200/-

The delay of 95 days in filing the appeal is condoned and appeal is admitted for hearing on merits.

[Dictated to the Typist on computer, corrected and then pronounced by me in the Open Court on this the **23rd day of August 2021**]

[C.CHANDRASEKHAR]
IV Additional District & Sessions Judge
Doddaballapura.