

All are Agriculturists &
RR/o Meerasabihalli Village,

Kasaba Hobli, Challakere Taluk,
Chitradurga District
[Rep by Sri. MSR, Adv.]

..... **Applicants/Appellants**

And

Manjunath S/o Kallappa
@ Angadi Manjanna,
Aged about 58 years,
R/o KPTCL Server
Behind Shobha Flour Mill
Somaguddu Road, Gandhinagar,
Challakere, Chitradurga Dist.**Opponent /Respondent**
[Rep. by Sri. KBP. Adv.]

PARTICULARS

1	Provision under which the application is filed	Sec.5 of Limitation Act
2	Relief Sought for	Condonation of delay
3	Date on which the application is filed	23.09.2024
4	Number of the application	I.A.No.I
5	Date on which the objections are filed by opponent	Objection Not filed
6	Date on which the order was passed on the said application	20.07.2026

ORDERS ON I.A.No.I

The present application is filed by the appellants under section 5 of Limitation Act seeking condonation of delay of one year seven months caused in preferring the appeal.

2. In support of the application, the appellant No.3 has filed his affidavit swearing to the fact that as her mother i.e. the appellant was suffering from ill-health and she was being taken

to various hospitals, they were unable to contact their counsel and prefer an appeal. Further it is stated that only recently they learnt from their counsel that the suit filed them was dismissed. Immediately they applied for the certified copies on 19-07-2024 and the same were received by them on 17-08-2024. Thus there is a delay of one year and seven months caused in preferring the appeal. The delay caused is bona fide and unintentional one. On these grounds and such others, it is prayed for allowing the application.

3. In spite of grant of sufficient time, the respondent has not filed any objections to the application. Thereafter the matter was posted for enquiry on the application.

4. In order to substantiate their stance, the appellant No.3 has got him examined as CW-1. He has also got marked two documents at Ex.C-1 and C-2. CW-1 was cross-examined by the learned counsel for the respondent. Thereafter the appellants have closed their side. The respondent has not chosen to lead any evidence on his behalf.

5. Heard arguments. Perused records.

6. The points that arise for the consideration of this court are as hereunder:

POINTS

1. *Whether the appellants have made out sufficient grounds to allow the application?*
2. *What order?*

7. On consideration of the materials placed on record, this court answers the aforesaid points as hereunder:

Point No.1: In the *negative*

Point No.2: As per final order

for the following

REASONS

8. **Point No.1:** The present appeal is preferred against the judgment and decree passed by the learned Additional Civil Judge & JMFC, Challakere in O.S.No.150-2014 dated 27-02-2023. The certified copies were applied on 19-07-2024 and the same were received on 17-08-2024. The appellants are seeking condonation of delay on the ground of ill-health of the appellant No.1 and their inability to collect information from their counsel regarding dismissal of the suit. In order to substantiate their case, the appellant No.3 had got him examined as CW-1 and got marked two documents at Ex.C-1 and C-2. In his examination-in-chief, he has filed his affidavit reiterating the application averments.

9. During the course of his cross-examination, CW-1 has admitted that he and the other appellants were attending the

courts till disposal of their suit. He has also admitted that even his mother i.e. the appellant No.1 was also appearing before the trial court. Further he has admitted that on 27-02-2023 they have collected information regarding the judgment passed by the trial court. CW-1 has also admitted that he has not produced any documents to show that his mother was treated at hospital.

10. It is well settled principle of law; that each day's delay has to be explained by the appellant, which is caused in filing the present appeal. Though the judgment was passed by the trial court on 27-03-2023, the present appeal came to be filed on 23-09-2024. Excluding the period for obtaining the certified copies and the actual period prescribed for preferring the appeal, there is an inordinate delay of 514 days caused. Though CW-1 claims that due to his mother's ill-health, they were unable to obtain information regarding the judgment passed by the trial court. However during the course of his cross-examination he has admitted that they were regularly pursuing the matter before the trial court and had learnt about the judgment passed by the trial court on 27-02-2023. In spite of having knowledge about the judgment being passed against them, the appellants had not preferred the appeal within reasonable time. Though CW-1 has deposed regarding the ill-health of his mother, absolutely no documents are placed on record by the appellants regarding the ill-health of the appellant or about the treatment taken by her.

Thus no sufficient grounds have been made by the appellants to condone the delay caused in preferring the present appeal.

11. In this regard it is pertinent to refer to the judgment passed by the Hon'ble Supreme Court in the case of *Majji Sannemma @ Sanyasirao Vs. Reddy Sridevi & Ors.* in **Civil Appeal No.7696/2021** dated 16-12-2021. The same is reported in **(2021) 18 SCC 384**. It was observed by the Hon'ble Apex court that an application for condonation of *delay in cases of gross negligence and or want of due diligence on part of the appellants not be condoned lightly*. It was further observed that *in the absence of reasonable, satisfactory, or even appropriate explanation for seeking condonation of delay, the same cannot be condoned lightly*. It is also observed that *the law of limitation may harshly affect a particular party, but it has to be applied with all its rigour when the statute so prescribe and the court have power to extend the period of limitation on equitable grounds*. Thus the court cannot condone the delay out of blind generosity, leniency or mere sympathy. The appellant must provide concrete and satisfactory reasons for the delay.

12. In the instant case in spite of being aware about the judgment passed against them, no diligence was shown by the appellants to prefer the present appeal. Though the reason of ill-health of the appellant No.1 was offered, no materials are placed on record to substantiate the same. Even if the appellant

No.1 was suffering from ill-health, the other appellants i.e. the appellants Nos.2 to 4 could have made efforts to prefer the appeal. As such this court is of the considered opinion that the appellants have not made out any sufficient ground to condone the inordinate delay of 514 days caused in preferring the present appeal. Thus for these reasons, this court is constrained to answer point No.1 in the **negative**.

13. **Point No.2:** In the light of foregoing discussions, this court is proceeds to pass the following:

ORDER

IA No.1 filed by the appellants under section 5 of Limitation Act is hereby dismissed with costs.

Consequently the appeal preferred under Order 41 Rule 1 R/W Sec.151 of CPC is also dismissed.

Office is directed to intimate this order to the trial court, for information.

(Typed by me on laptop, printout taken, corrected and then pronounced in the open court on this the 20th day of July-2026).

[SHAMEER P. NANDYAL]
Senior Civil Judge & JMFC
Challakere

ANNEXURES**WITNESSES EXAMINED FOR THE APPELLANTS:**

CW-1 : Bapugowda

DOCUMENTS MARKED FOR THE PETITIONER:

Ex.C-1 : Out Patient Case Sheet

Ex.C-2 : Four Medical Records

WITNESSES EXAMINED FOR THE RESPONDENT:

-NIL-

DOCUMENTS MARKED FOR THE RESPONDENT:

-NIL-

Senior Civil Judge & JMFC
Challakere.