

RA No.04/2021

ORDERS ON I.A.

The appellant has filed application under section 5 of Limitation Act and prays, that the court to condone the delay of 225 days caused in filing the appeal. On the ground that he fell into a severe illness and also due to COVID-19 lock down , they could not contact their counsel within time, as they are able to contact the advocate only after the situation came to normalcy.

02. The respondent has not filed objections. The respondent submits that I.A. may be allowed.

03. Heard.

04. The appellants have preferred this appeal after lapse of 225 days. In order to substantiate the averments made out in the affidavit, the appellant NO.1 , although she has not produced the medical certificate to show the nature of illness she had, but it is true that the period which she has mentioned in the affidavit and the appeal was of COVID-19 pandemic period, so, there was no certainty in functioning of the public Offices, in the circumstances, certainly, they might have found difficulty in pursuing the things which ought to do, which prima facie establishes that the appellants were not in a position to contact the counsel to file the appeal.

Moreover, as per the dictum of the Hon'ble Apex Court with regard to the limitation period which is to be condoned by taking into consideration of the lock down period, so, that these period of 225 days has to be condoned, at the same time, they did not file the appeal soon after the closure of lock down, so, nominal cost has to be imposed on the appellant.

05. It is a settled proposition of law that court should not be too technical while dealing limitation in filing appeals. Since, the duty of court is to render justice to aggrieved party. Hence, by considering the facts and circumstances the delay caused in filing the appeal is viewed and construed liberally in order to avoid multiplicity in proceedings and fair opportunity should be given to the party to submit arguments on appeal. Hence, it is just and necessary to allow the I.A. by imposing cost that would meet the ends of justice.

ORDER

The I.A.1 filed by the appellant under section 5 of Limitation Act is allowed with cost of Rs. 500/-.

In the result the delay of 225 days in filing the appeal is hereby condoned.

(SARAVANAN.S)
**SENIOR CIVIL JUDGE & JMFC,
HOLALKERE.**

Call for TCR and also to hear on IA no.2.

Call on: 03-10-2023

(SARAVANAN.S)
SENIOR CIVIL JUDGE & JMFC,
HOLALKERE.