

ORDERS ON I.A.1

The appellant has filed IA No.1 U/Sec.5 of Limitation Act, seeking an order to condoned the delay of 32 days in preferring this appeal. In the application it is stated that she was not feeling well and she could not able to her counsel to file appeal against the judgment and decree passed by the trial court. Further, the delay in filing the appeal is bona fide reason and not intentional also. If application is not allow she will be put to great loss and legal injury and hence prays to condone the 32 days delay in filing the present appeal.

2. Per contra, the respondent No.1 resisted the I.A. No.1 by filing objection. In the objection it is contended that the application filed by the appellant is not maintainable in law or in facts and the appellant sworn several false facts in support of the affidavit and the appeal is concocted story created by the appellant. Further, there is an more then 2 months 22 days delay preferring an appeal, but the appellant filed an application seeking only 32 days delay, hence the appellant filed this

appeal by suppressing all the above facts to miss lead this court and other grounds prays to reject the application.

3. The appellant got examined in the case on I.A.No.1 as PW-1. and on the other hand, the respondents have not adduced any evidence and did not chose to cross-examine the PW-1. Heard arguments. In the light of above material on record the points that arise for consideration are;

1. ***Whether there are sufficient reasonable grounds to condone the 32 days delay in preferring the appeal by the appellant?***

2. ***What order?***

4. My findings on the above points are as under;

Point No.1: In the affirmative

Point No.2: As per final Order, for the following:

REASONS

5. Point No.1: It is stated in the affidavit filed by the appellant in support of I.A.No.1 that, appellant/plaintiff had filed suit in O.S No.513/2012 against respondents seeking relief of eviction in respect of suit schedule property. respondents/defendants has appeared through their counsel and by filing his written statement took specific defence. After the trial the suit filed by the plaintiff came to be dismissed. As such appellant being aggrieved by the same preferred this appeal.

6. In support of the pleadings in affidavit, due to ill-health, she could not contact her counsel, hence she failed to file the appeal before this court within the limitation period of appeal and thereby caused 32 days delay in filing the present appeal, and the said reasons is acceptable one. Therefore, it is just and proper to condone the 32 days delay in filing the present appeal. **Hence, I answer the above point in the affirmative.**

7. **Point No.2**: As per the following order;

ORDER

***The I.A No.1 filed by the appellant
U/Section 5 of Limitation Act is hereby alloweds
and thereby 32 days delay in filing the appeal is
condoned.***

For argument on merit by 11-12-2025.

(Dictated to the Stenographer, after his transcription, corrected, signed by me and then pronounced in open court on this 1st day of December 2025)

**(Reshma H.K.)
Prl. Senior Civil Judge & CJM.,
Davanagere.**