

IN THE COURT OF THE I ADDITIONAL
SENIOR CIVIL JUDGE & J.M.F.C., HUBBALLI

Present:

SMT. SARVAMANGALA K.M.,
B.A. LL.B.,
I Additional Senior Civil Judge and JMFC.,
Hubballi.

R.A. No.21/2026

Dated this the 13th day of July, 2026

Appellant/s : Madivalappa S/o
Channaveerappa Javali
and others.

.Vs.

Respondent/s : Shri. Shivanand S/o
Somashekharappa Javali
and another.

PARTIES TO I.A. No.I

Applicant/s : Madivalappa S/o
Appellants Channaveerappa Javali
and others.

.Vs.

Opponent/s : Shri. Shivanand S/o
Respondents Somashekharappa Javali
and another.

- i. Provision under : Under Order XLI
which application is Rule 3(A) of CPC
filed R/w Sec.5 of
Limitation Act
- ii. Relief sought for : Seeking an order to
condoning delay in
filing the present
appeal.

- iii. The date on which : 10.04.2026
application is filed
- iv. Number of the : I
application
- v. The date on which : NIL
objections are filed
by different
opponents
- vi. The date on which : 13.07.2026
orders were passed
on the said
application

ORDERS ON I.A. No.I

The counsel for appellants have filed an I.A. No.I under Order XLI Rule 3(A) of CPC R/w Sec.5 of Limitation Act, seeking an order to condoning delay in filing the present appeal.

2. The respondents have not filed objections.

3. Heard arguments.

4. The following point is arises for disposal off the application.

“Whether the appellants made out sufficient cause to condone the delay in filing the present petition as per I.A. No.I ?”

5. My finding to the above point in the Affirmative for forgoing;

REASONS

6. In the affidavit in support of the present application it is stated that, appellant No.1 is suffering from old age ailments and he is in bed rest and he is unable to get some documents related to this case in time to furnish to his counsel and unable to file appeal within time. So there is a delay caused in filing this appeal. The delay is a bonafide one but not deliberate. If this application is allowed no harm or injustice would be caused to the respondents, on the contrary, if this application is not allowed, they will be put to irreparable loss and injustice. Hence, prayed to allow the application.

7. The appellant has filed an application under Section 5 of the Limitation Act seeking condonation of delay of 76 days in preferring the appeal. It is contended that appellant No.1, being an aged person, was suffering from age-related ailments and was advised bed rest. Owing to his health condition, he could not collect the necessary documents pertaining to the case and furnish the same to his counsel within the prescribed period. Consequently, the appeal could not be filed in time. It is specifically stated that the delay was neither willful nor deliberate,

but occurred due to circumstances beyond his control.

Though sufficient opportunity has been afforded, the respondents have remained absent and have not filed any objections to the application. The delay sought to be condoned is only 76 days, which cannot be said to be inordinate. The explanation offered by the appellant appears plausible and there is nothing on record to indicate malafides or intentional negligence.

It is well settled that the expression "sufficient cause" under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice. Unless gross negligence or lack of bonafides is established, a litigant should not be denied an opportunity to have the matter decided on merits. The Hon'ble Supreme Court in Collector, Land Acquisition, Anantnag v. Mst. Katiji [(1987) 2 SCC 107] has held that a pragmatic and justice-oriented approach should be adopted while considering applications for condonation of delay. Accordingly, this Court is satisfied that the appellant has shown sufficient cause for the delay of 76 days. Hence, the application under Section 5 of the Limitation Act deserves to be

allowed. Hence, I answer the **point No.1 in the affirmative.**

8. **Point No.2:** For the above said reasons, I proceed to pass the following :

ORDER

I.A. No.I filed by the learned counsel for appellants under Order XLI Rule 3(A) of CPC R/w Sec.5 of Limitation Act is hereby allowed.

*The delay of 76 days in filing
the appeal is condoned.*

(Dictated to the Stenographer directly on computer, script corrected and then pronounced by me in the Open Court on this the **13th day of July, 2026**)

(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge and JMFC.,
Hubballi.

ANNEXURE

1. List of witnesses examined for the Appellant/s:

*P.W.1 Madivalappa S/o Channaveerappa
Javali.*

2. List of documents exhibited for the Appellant/s:

-NIL-

3.List of witnesses examined for the respondent/s:

-NIL-

4.List of documents exhibited for the Respondent/s:

-NIL-

sd/-

(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge and JMFC.,
Hubballi.