

Orders on IA – I

The appellants have filed IA-I u/Order 40 Rule 3A R/W/Sec. 5 of Limitation Act seeking for condoning the delay of 5 days in filing this appeal on the ground that the appellant had miscalculated the dates for filing the appeal.

2. The learned counsel for respondent No.3(a to e), 5 and 6 Smt.BCV, advocate has orally objected to the IA stating that costs may be imposed.

3. Heard. The only point that arises for consideration is that '*whether the appellants have made out sufficient cause to condone the delay in preferring the appeal?*

4. Having considered the arguments put forth and having perused the IA, oral objections and the material placed on record, the aforementioned point is answered in the affirmative, for the following;

Reasons

5. This is an appeal filed u/o XLI Rule 1 of CPC. The appellants have stated that the delay in filing this appeal has been caused as the appellant had miscalculated the dates for filing the appeal. It is noted that the impugned judgment was passed in O.S. No.316 of 2008 on 21.12.2019 and the decree has been signed on 21.01.2020. The certified copy is applied on 02.01.2020 and delivered on 18.01.2020. Thus the appeal ought

to have been filed on or before 20.02.2020. This appeal has been filed on 20.02.2020. It is noted that the Hon'ble Supreme Court in *In re Cognizance for Extension of Limitation in Miscellaneous Application No.665/2021 in SMW(C) No.3/2020 dated 27/04/2021* has issued order and directions for excluding the period from 15.03.2020 till 14.03.2021 in computing the period of limitation for any suit, appeal, application or proceeding. It is noted that subsequently again there was lockdown due to second wave of Covid-19 pandemic and the period of limitation was once again extended till 02.10.2021. Hence there appears to be no delay in filing this appeal. Considering the reasons stated by the appellants and submissions made by the learned counsel for the respondent and the foregoing reasons, it appears that the appellant has made out sufficient cause to allow the IA. Accordingly, the aforementioned point is answered in the affirmative and hence, the following;

ORDER

IA-I u/o 41 Rule 3A R/W/Sec. 5 of Limitation Act is hereby allowed.

Call for Trial Court Records by 13/01/2022.

(Dictated to the typist in the open Court, transcribed by her directly on the Computer, transcript corrected by me and then pronounced in the open Court on this the 09th day of November, 2021).

**Addl. Senior Civil Judge & JMFC,
Maddur.**