

KAMS010016382023



**IN THE COURT OF THE I ADDITIONAL DISTRICT &  
SESSIONS JUDGE AT MYSURU**

Dated this the 7<sup>th</sup> day of November 2025

**Present: Sri D.Puttaswamy, B.A., LL.B.**  
I Addl. Dist. & Sessions Judge  
Mysuru.

**: LAC(APPL)/51/2023 :**

Appellant/s : Basappa S/o Late Javanappa, aged  
about years, R/o Pillahalli Village,  
Varuna Hobli, Mysuru  
Taluk/District.

(By **Sri M.Basavaraju, Adv.**)

V/s.

Respondent/s : The Special Land Acquisition  
Officer, Kabini Reservoir Project,  
Mysuru.

(By Learned **DGP.**)

**Parties to I.A.No.I**

Applicant/ Appellant Basappa  
Appellant

V/s.

Opponent/ Respondent The Special L.A.O., Mysuru.  
Respondent

**ORDERS ON I. A. I**

I.A.No.I is filed by the appellant U/sec.5 of Limitation Act seeking an order to condone the delay of 6158 days in preferring the appeal in the interest of justice and equity.

2. In the accompanying affidavit to IA No.I, the appellant Basappa has stated that he has preferred the appeal against the Judgment and decree passed in LAC No.44/2004 dated 21.04.2006 on the file of I Addl. Senior Civil Judge, Mysuru. The Trial Court has not fixed the market value of the property to his acquired land. The V Addl. District & Sessions Court, Mysuru has fixed the market value in LACA No.102/2016 and awarded higher compensation at Rs.2,23,440/- per acre, who is his neighbouring land holder. He is poor and helpless and could not able to prefer the appeal within stipulated time, as he was not aware of the legal procedure and due to ill health. He came to know recently about the higher compensation awarded by this Court through other land losers. He has lost his valuable land for public purpose. There is delay in preferring the appeal and accordingly, he has prayed to allow the application.

3. The respondent has appeared through learned DGP and filed objection to I.A.No.I contending that the application filed by the appellant is not maintainable either in law or on fact and liable to be dismissed. The appellant has not given any believable reasons to condone the delay of 6158 days and he had knowledge regarding Court order. The appeal is filed after lapse of more than 6158 days. Even, appellant has not made out any prima facie case. The appellant has already received the enhanced compensation amount as per award passed in LAC. Therefore, the appeal filed on the same judgment is not maintainable under the law. Consequently, this application filed seeking condonation of delay in preferring the said appeal is also not maintainable. Therefore, it is prayed to dismiss the application with cost.

4. The appellant is examined as PW1, but no documents are got marked. The respondent has not chosen to adduce any evidence.

5. Heard the arguments of learned counsel for appellant and learned DGP for respondent. I have also perused the records.

6. In view of the above facts and circumstances, the points that arise for my consideration are:

1. Whether the appellant has made out sufficient grounds to condone the delay as prayed in IA.No.I?

2. What order?

7. My findings on the above points are as follows :-

Point No.1 : In the **Affirmative**.

Point No.2 : As per final order for the following:

### **REASONS**

8. **Point No.1**: The above appeal is preferred by the appellant U/sec.54 of Land Acquisition Act, 1894 to set aside the judgment and decree passed in LAC No.44/2004 dated 21.04.2006 on the file of I Addl. Senior Civil Judge, Mysuru and thereby to modify the award and re-fix the market value to the acquired land of appellant with all other statutory benefits.

9. The appellant, who is examined as PW1 in his evidence has reiterated the averments made in the accompanying affidavit to I.A.No.1 and specifically deposed that, as he was not aware of legal procedure, he couldn't

prefer the appeal within the stipulated time. Due to financial difficulties, he could not contact his counsel. Recently he came to know about the higher compensation awarded by this Court through other land losers. He has lost his valuable land for public purpose. During cross-examination, PW1 states that, he has already received compensation. He denied that since there are no reasonable grounds are urged for condoning the delay in preferring the appeal, he is not entitled for enhanced compensation.

10. The learned DGP for respondent submitted that appellant has already received compensation as per award passed by the Trial Court. The appellant during cross-examination admitted that, he had already received compensation. When once the appellant has received compensation amount as per award passed in LAC case, question of preferring appeal doesn't arise. Further, there is huge delay in preferring the appeal and no reasonable grounds are made out for condoning the delay and accordingly, prayed to dismiss the application.

11. The learned counsel for appellant submitted that the delay in preferring the appeal is not intentional, but for bona-fide reasons. Due to lack of legal knowledge, he

was not aware about preferring appeal in time. Recently, he came to know about award of enhanced compensation to the adjoining land losers and therefore, contacted his counsel and filed the appeal. If the delay is not condoned appellant will be put to much injustice and hence, prayed to allow the application.

12. In view of the above submissions, it is necessary to rely upon the following decisions on the point of condonation of delay;

1. ILR 2017 KAR 3368 (Waheed Patel, since deceased by his LR's V/s. The Chief Engineer, Gulbarga and others).
2. Judgment dated 25.03.2014 passed by Hon'ble High Court of Karnataka, Dharwad bench in MFA.No. 25092/2012(LAC) (Somashekar V/s. The Special Land Acquisition Officer).
3. Order dated 19.07.2017 passed by the Hon'ble Supreme Court of India in Civil Appeal No.9288/2017 (K.Subbarayudu & others V/s. The Special Deputy Collector).

13. In the above decisions, the Hon'ble Apex Court and also the Hon'ble High Court of Karnataka by considering illiteracy, financial crises and other constraints of the land

losers, have condoned the delay in preferring the appeal under the principle of equity, but have held that, equities can be balanced by denying the interest for the period of delay.

14. In this case, as noted above there is delay of 6158 days in preferring the appeal. Admittedly, this is an appeal filed under the provisions of Land Acquisition Act, seeking modification and re-fixing of market value for the acquired land of the appellant based on the award passed for higher compensation in favour of adjoining land losers. But, other side have not placed any material to discard the evidence of PW1 either by producing any oral or documentary evidence. As per the principle laid down in the above decisions, it is well settled law that the Courts should be liberal in condoning the delay, particularly in the matter of present nature, where the farmers who are land losers are before this Court, seeking enhancement of compensation. Therefore, looking to the facts and circumstances of the case and by following the principles and guidelines laid down in the above decisions, if the delay in preferring the appeal is condoned with a condition that appellant is not entitled for interest for the period of delay, it will meet the ends of justice. Therefore, I answer Point No.1 in the **Affirmative**.

15. **Point No.2:** In view of my answer to point No.1 in the "***Affirmative***", I proceed to pass the following:

**ORDER**

I.A.I filed under Section 5 of Limitation Act is allowed. Delay of 6158 days in preferring the appeal is condoned.

However, the appellant is not entitled for the interest for the period of delay.

[Dictated to the Stenographer on Computer, typed script corrected and pronounced by me in the Open Court on this the 7<sup>th</sup> day of November 2025]

**[D.Puttaswamy]**  
I Addl. District & Sessions Judge,  
Mysuru.