



**IN THE COURT OF THE II ADDL DISTRICT AND  
SESSIONS JUDGE, MYSURU**

**Dated this the 18<sup>th</sup> day of November 2025**

**:: PRESENT ::**

**Sri Mallanagouda, B.Com., LL.M.,**  
II Addl. District & Sessions Judge,  
Mysuru.

**R.A./283/2019**

- APPELLANT/S :**
1. Tahasildar,  
Mysuru Taluk,  
Mysuru.
  2. Deputy Commissioner,  
Mysuru District,  
Mysuru.
  3. Panchayath Development Officer,  
Yelwala Grama Panchayath,  
Yelwala, Mysuru Taluk.
  4. Chief Executive Officer,  
Zilla Panchayath,  
Mysuru District, Mysuru.
  5. Chief Secretary,  
Government of Karnataka,  
Vidhana Soudha,  
Bengaluru.

(By : Sri. **A.D.G.P.**, Adv.,)

**V/s**

- RESPONDENTS:**
1. Mudigowda (**Dead**)  
S/o. Late Devara Guddaiahna  
Chikkegowda,  
Aged about 85 years,

2. Mayigowda,  
S/o. Late Mudigowda,  
Aged about 40 years,
3. Prakash,  
S/o. Mudigowda,  
Aged about 41 years,

All are R/at. Karakanahalli Village,  
Yelwala Hobli, Mysuru Taluk.

**(Respondent No.1 – dead,  
Respondent No.2 & 3 By : Sri.H.P.S., Adv.,)**

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

**APPLICANT/s :** P.D.O.  
Yelwala Grama Panchayath,  
Yelwala, Mysuru Taluk  
..... Appellant No.3

**V/s**

**OPPONENT:** Mudigowda and others  
..... Respondent

**:: ORDER ON I.A. FILED BY THE APPELLANTS  
UNDER SECTION 5 OF LIMITATION ACT ::**

This Appeal is filed by the Appellants challenging the Judgment and Decree in O.S.No.22/2006 dated 02.02.2013 on the file of II Civil Judge and JMFC., Mysuru.

2. Since there is delay in filing the appeal the Appellants have filed I.A.No.1 under Section 5 of limitation Act seeking condonation of delay in filing the appeal.

3. In the affidavit filed in support of the application the Appellant No.3 has sworn to the effect that, based on the affidavit of PW.1 and documents produced by the Plaintiff suit came to be decreed, as there is delay in filing the appeal he filed the present application, the delay occurred in filing the appeal is of 1700 days, the predecessor officers in the office have not followed original suit, if application is allowed no prejudice will be caused to the other side also, if the application is rejected it causes great hardship and inconvenience to government and also general public. Infact civil Court has no jurisdiction to decide about Sarkari Kharab Thopu, the suit land including another land in Sy.No.141 totally measuring 1 acre 10 guntas is reserved for the purpose of graveyard. Hence, Appellants have good case on merits. Therefore, there is necessity to condone the delay.

4. To this application learned counsel for Respondents has filed objection stating that, since Appellants have appeared before the Trial Court they have every knowledge about the suit and even after the judgment in the said suit Plaintiff approached appellant to

change the khata. Hence, Appellants have knowledge about the same. The Respondent No.3 has filed WP.No.2844/2017 before the Hon'ble High Court of Karnataka, in that petition notice was served on the Appellants and now the Appellants filed present appeal with an intention to take a chance. Further there is deliberate delay of 1700 days, each delay has to be explained but Appellants have not done the same. Therefore, application of the Appellants is liable to be rejected.

5. Heard. Perused the entire case record.

6. The only point that arises for my consideration is :

1. Whether the application filed by the Appellants U/Sec.5 of the Limitation Act deserves to be allowed ?

2. What Order ?

7. In support of application Appellants examined P.D.O who is Appellant No.3 as PW.1. On the other hand Respondents examined Respondent No.3 as RW.1.

8. My findings on the above points are as follows:

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

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

### **REASONS**

9. **POINT NO.1:** It is the case of the Plaintiffs that as per the petition filed by Plaintiff No.1 Defendant No.1 has granted the suit property to Plaintiff No.1. Hence, Plaintiffs became owners of the suit schedule property and vide judgment dated 02.02.2013 the Trial court has decreed the suit of the Plaintiffs and declared them as owners of the suit property.

10. Now the Appellants have come up before this Court seeking permission to file appeal by condoning the delay in filing the appeal.

11. During the arguments learned counsel for Appellants has submitted arguments stating that as the suit property is reserved for public purpose like grave yard, the Respondents have not produced sufficient materials regarding their title and possession over the suit schedule property. In spite of it the suit came to be decreed, since the predecessor in office of Respondent No.3 has not taken

steps for filing appeal immediately after judgment of the Trial Court, hence, there is delay in filing the appeal. Since the dispute is regarding immovable property reserved for public purpose it is necessary to condone the delay in filing the appeal.

12. On the other hand, learned counsel for Respondents has argued stating that, though Appellants are all Government officials there is no valid reasons furnished by the Appellant regarding delay in filing the appeal. Therefore, the Appellants are not entitled for condonation of delay.

13. On perusal of the facts and circumstances of the case it appears to me that, reasons stated by the Appellants are not entirely true and correct and not sufficient to prove each day delay in filing the appeal. However, as the appeal is regarding immovable property allegedly belonging to Government and delay is only 1700 days and Appellants are ready to get the matter adjudicated on merits if application is allowed and delay is condoned both the parties to the dispute will get another

opportunity of hearing the case on merits. At the same time if the application is rejected the Appellants will be lose opportunity of getting their matter decided on merits. Further more as rightly submitted by Appellant counsel the dispute is in respect of the immovable property belonging to general public. Therefore, it is proper and necessary to allow the application filed by the Appellants U/Sec.5 of Limitation Act and decide the appeal on merits. Accordingly, I answer Point No.1 in the **Affirmative**.

14. **POINT NO.2:-** In the result, I proceed to pass the following :

**ORDER**

The application filed by the Appellants U/Sec.5 of the Limitation Act is hereby **ALLOWED**.

Delay in filing the appeal is condoned.

[Dictated to the Stenographer, directly on computer, corrected and then pronounced by me in the open Court on this the **18<sup>th</sup> day of November 2025**]

**[Mallanagouda]**  
II Addl. District & Sessions Judge,  
Mysuru.

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