

KAMS010087232024



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

Dated this the 2nd day of July, 2026.

:: PRESENT ::

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

LAC(APPL)/43/2025

APPELLANT: H.M.Mallikarjunaiah S/o late
Patel Mallappa, aged about 80
years, r/a Hanchya village,
Kasaba Hobli, Mysuru Taluk.
(By Sri S.A.S Adv.,)

V/s.

RESPONDENT : The Special Land Acquisition
Officer, Kabini Reservoir Project,
Mysuru.

[By : A.D.G.P.,]

::ORDER ON APPLICATION FILED U/S.5 of Limitation

Act::

This Appeal is filed by the Appellant U/Sec.54 of the
Land Acquisition Act challenging the Judgment passed by

the Learned III Addl.Senior Civil Judge & CJM, Mysuru in LAC No.836/1996 dated 7.12.2004.

2. Vide IA U/Sec.5 of the Limitation Act the Appellant prayed to condone the delay in preferring the appeal. In support of the application, the Appellant has sworn to an affidavit stating that, as he was suffering from joint pain and other old age ailments and due to lack of legal knowledge, poverty and helplessness, he has not instructed his counsel to file appeal within limitation and further he came to know recently about the higher compensation awarded by the learned III Addl. District and Sessions Judge, Mysuru to other land losers of the same village. Therefore, he decided to file appeal with application to condone the delay. It is his further contention, he has lost his valuable land for the public purpose, if the application is not allowed he will be put to hardship and inconvenience and on the other hand no hardship will be caused to the other side. With all other grounds, the Appellant prayed to allow the application filed U/Sec.5 of the Limitation Act.

3. To this application, the Respondent has filed objections stating that there are no proper grounds for

condoning the delay, reasons quoted in the application are all false. Hence application is liable to be rejected.

4. Heard. Perused the entire case record and the decisions.

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

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

2. What Order?

6. 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

7. **Point No.1:** During inquiry Appellant has sworn to affidavit and the same is treated as evidence of PW-1, wherein he has reiterated the grounds urged in the affidavit filed in support of the application filed under Sec.5 of the Limitation Act and prayed to read the appeal grounds as part and parcel of the evidence. It is his contention, as as he was suffering from joint pain and other old age ailments and due to lack of legal knowledge, poverty and

helplessness, he has not instructed his counsel to file appeal within limitation and further he came to know recently about the higher compensation awarded by the learned III Addl. District and Sessions Judge, Mysuru to other land losers of the same village. Therefore, he decided to file appeal with application to condone the delay.

8. The Learned Advocate for the Appellant has submitted arguments by referring the contents of the appeal memo as well as the grounds urged by the Appellant in preferring a delayed appeal and with all other grounds, prayed to allow the application.

9. In the case on hand, vide application under consideration the Appellant/Applicant prayed to condone the delay in preferring the appeal on the ground that as he was suffering from joint pain and other old age ailments, he was not aware about the legal procedure and due to poverty and helplessness it was not possible to approach the Counsel to prefer the appeal within the stipulated period. By taking into consideration of the observations and the principles laid down in the judgments of higher courts, though the reasons

assigned may not be justifiable the long delay, what is necessary to be kept in view is that, it is the contention of the appellants that, similarly placed landlords have been granted a higher compensation and the Appellant is also seeking a similar compensation, hence, there is necessity to condone the delay in preferring the appeal subject to the condition that the Appellant is not entitled for interest for the said delayed period. With this observation, this Court is of the opinion, the Appellant herein has made out a ground to allow the application filed U/Sec.5 of Limitation Act. Accordingly, I answer Point No.1 in the **Affirmative**.

10. **Point No.2:-** In the result, I proceed to pass the following:

ORDER

The application filed U/Sec.5 of the Limitation Act is hereby **ALLOWED**, subject to the condition that the Appellants are not entitled for interest for the said delayed period in preferring the Appeal, in case the Appellants succeed in Appeal.

No order as to cost.

[Dictated to the Stenographer, directly on computer, corrected and then pronounced by me in the open Court on this the **2nd day of July 2026**]

[Mallanagouda]

III Addl. District & Sessions Judge,
Mysuru.