

KAMS010080392024



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

:PRESENT:

Sri. **Gururaj Somakkalavar**, M.A.,LL.B.,
III Addl.District Judge, Mysuru

LACA No.46/2025

Dated this the 31st day of October 2025

Appellants: H.Narayana, **Dead by Lrs,**

1(a). Rajesha,
S/o Late H.Narayana,
Aged about 42 years,
R/at D.No.4400, 9th Cross,
St. Mary's Road,
N.R.Mohalla, Mysuru City.

1(b). Smt.Mamatha,
W/o Shivakumar,
D/o Late H.Narayana,
Aged about 40 years,
R/at D.No.3526, Javarahalli
Street, Veeranagere, Lashkar
Mohalla, Mysuru City.

V/s

Respondent The Assistant Commissioner,
Mysuru Sub-Division, Mysuru.

I.A.No.I

Applicant: Rajesha Appellant No.1(a)

V/s

Opponent: The Assistant Commissioner,
Mysuru Sub-Division, Mysuru.

ORDERS ON I.A.NO.I UNDER SEC.5 OF LIMITATION ACT

The appellant No.1(a) herein has filed an application under Sec.5 of Limitation Act for condone the delay of 6645 days in filing the appeal, in the interest of justice and equity. The appellant has filed application on 14.11.2024 and respondent has filed written arguments on 29.10.2025.

2. It is contended in the accompanying affidavit to I.A.No.I, that there is a delay of 6645 days in lodging this appeal. The appellant has preferred this appeal against the judgment and decree passed in LAC No.412/2001 dated 05.09.2006 on the file of the I Addl. Senior Civil Judge and CJM at Mysuru. The grounds urged in the appeal

memorandum may kindly be read as part and parcel of this affidavit to avoid repetition of facts.

3. The Trial Court has not fixed the market value of the property to his acquired land in LAC No.40/2023 awarded the compensation at the rate of Rs.15,73,000/- per acre. The claimants in LAC No.412/2001 are his neighbour land holder. His land is adjacent to the above said land. Further, he came to know recently about the higher compensation awarded by the Prl. Senior Civil Judge land CJM at Mysuru though other land losers. Further, due to his ill health, he was not in a position to contact his counsel to instruct him to prefer the appeal and to file the same earlier. As such there is a delay in preferring the Appeal. Hence, this application. The applicant has lost his valuable land for public purpose. If the application is not allowed, he will be put to hardship, injury and inconvenience. On the other hand, no hardship will be caused to the other side, if this application is allowed. In these circumstances, granting of relief as prayed for in his application is necessary in the interest of justice and equity. Hence, prayed to condone the delay in filing the appeal.

4. After filing of the appeal, notice issued to Respondent. Respondent appeared before court through his counsel and filed written arguments to the IA No.I.

5. Heard both sides.

6. The points that arise for consideration are:

1. Whether the Appellant made out grounds to allow I.A.No.I, to condone the delay in filing the appeal?

2. What order?

7. My findings to the above points are:

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

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

REASONS

POINT No.1:

8. The appellants herein questioned the judgment and award passed in LAC No.412/2001 dated 05.09.2006 on the file of I Addl. Senior Civil Judge and CJM at Mysuru and seeks to modify the award and re-fix the market value

of the acquired land to appellants with the statutory benefits.

9. The appellants along with the appeal maintained application under section 5 of Limitation Act for condonation of delay in preferring the present appeal. In the accompanying affidavit, the appellants contend that, due to ill health and due to lack of knowledge, poverty and helplessness he was not able to contact his counsel to give necessary instructions to prefer this appeal with the necessary documents, he could not prefer the appeal within the stipulated time. As such, there is a delay in preferring the appeal.

10. After considering the written arguments filed by the respondent, the matter is set for enquiry on the delay in preferring the appeal.

11. The appellant No.1(a) examined himself as PW-1 and reiterated his contention and also contents that, the land losers in the very same area, have received higher compensation. Further, due to unavoidable reasons, he could not prefer the appeal in time and there is a delay in preferring the appeal. After, gathering the information that

the other land losers have received higher compensation, immediately, preferred the present appeal. Since, he is suffering from ill health and due to lack of knowledge he is not able to file appeal in time.

12. He is subjected to cross-examination by the counsel for the respondent. Where, it is tried to elicit that there is no sufficient ground to condone the delay. In this regard, it is suggested that he is aware about the award passed in the LAC on which he is relying upon. The said suggestion is admitted by PW-1. It is suggested that he has received the compensation which is awarded by the court and he has received the said compensation as same is sufficient and reasonable for him. Since the appeal is not preferred within the time, the present appeal deserves to be dismissed. The said suggestion denied by PW-1. It is also suggested that the land in the other LAC on which the appellants are relying upon seeking for higher compensation, is far away from the land of appellants. The said suggestion is also denied by PW-1.

13. The counsel for the appellants and respondent submitted arguments on the delay application and counsel

for the appellants submits that the delay in preferring the appeal is not intentional, but for bonafide reasons. If the delay is not condoned, the appellants will be put to irreparable loss and injustice. Hence, seeks to allow the application.

14. On the other hand, the respondent counsel submits that, the delay in preferring the appeal is intentional to get higher compensation under the guise of interest. The appellants have received compensation amount awarded in LAC, he has not questioned the same while receiving the said amount. The present appeal is filed at belated stage only for the wrongful gain. Further no sufficient cause is shown to condone the delay. Hence, seeks to dismiss the application.

15. After hearing both the sides and giving thoughtful consideration to the material on record, the Hon'ble Apex court in catena of judgments held that, in condonation the delay, the court should adopt liberal approach as ordinarily a litigant does not stand to benefit by lodging an appeal late and refusing to condone the delay can result in a meritorious matter being thrown out at the very threshold

and cause of justice being defeated. As against this, when delay is condoned, the highest that can happen is that the case would be decided on merits after hearing the parties.

16. In the decision cited at ***Saibanna V/s Assistant Commissioner and Land Acquisition Officer*** in ***ILR 1995 KAR 1137***, the Hon'ble High Court of Karnataka held that- Agriculturists from rural background, lands being only family asset and source of livelihood, if quantum of compensation re-fixed and enhanced, just and fair all similarly situated persons be benefited. The Hon'ble High Court of Karnataka in ***2017 (4) AKR 434*** held that while considering the appeal under Land Acquisition Act, judicial notice of fact can be taken that villagers being illiterate not conversant with intricacies of law and guided by co-villagers for redressal of their grievance, court should apply liberal approach. Courts to adopt liberal approach in the matter of condonation of delay in Land Acquisition matters. Equities can be balanced by denying the accept for the period of delay.

17. It is also relied upon the observation of Hon'ble Apex Court in the decision of ***New Okhla Industrial***

Development Authority V/s Rameshwar @ Ramesh Chandra Sharma through Lrs in Civil Appeal No.8331-8345/2022 judgment dated 17.12.2022. Where the Hon'ble Apex Court has considered the delay in preferring the appeal in Land Acquisition Case. Where, the Hon'ble Apex Court has condoned the delay of 22 years in preferring the appeal.

18. However, the Court has observed that the acquiring body or the beneficiary of acquisition shall not be considered as statutory benefit and interest which may be available under Land Acquisition Act 1894 for delayed period. In this case also, the Hon'ble Apex Court has considered condonation of delay in preferring the appeal.

19. In the present case on hand, there is a delay in preferring the appeal. Admittedly, the present appeal filed under the provisions of Land Acquisition Act seeking modification and re-fixing of market value for the acquired land of the appellants. The respondent has submitted that the appellants had already received just and proper compensation and they are not entitle for the enhancement.

It is also contended that there is a huge delay in preferring the appeal and reasonable ground is not made out.

20. As discussed above, the principles laid down in the above decisions, it is well settled that the court should be liberal in condoning the delay particularly in the matter of such a nature. Where the farmers who are the land losers are before the Court, seeking enhancement of compensation. Therefore, considering the grounds urged in the accompanying affidavit to IA, for condonation of delay and the nature of the appeal, further the facts and circumstances of this case, this court is of the opinion that delay required to be condoned. However, there is a condition that the appellants are not entitle for interest and other statutory benefits from the date of award till filing of the present appeal. With this condition, the present application deserves to be allowed. The appellants have made out grounds to condone the delay with condition. Accordingly, I answer **Point No.1 in the Affirmative.**

POINT NO.2:

21. In the result, I proceed to pass the following:

ORDER

The application filed by the appellant under Sec.5 of the Limitation Act is hereby **allowed**.

The delay of 6645 days in preferring the present appeal is hereby **condoned**.

However, it is made clear that the appellants are not entitle for interest and other statutory benefit from the date of award 05.09.2006 till filing of the appeal dated 16.11.2024.

(Dictated to the stenographer on computer, corrected and then pronounced by me in the open Court on this the **31st day of October 2025**)

(Gururaj Somakkalavar),
III Addl. District and Sessions Judge,
Mysuru.