

KAMS010081682024



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

:PRESENT:

Sri. **Gururaj Somakkalavar**, M.A.,LL.B.,
III ADDL.DISTRICT JUDGE, MYSURU.

CRL.R.P./253/2024

Dated this the 23rd day of April 2026

Petitioner: Madabovi

V/s

Respondents: Smt.Nagamma & Another

I.A.No.I

Applicant: Madabovi petitioner

V/s

Opponents: Smt.Nagamma & Another

Respondents

**ORDERS ON APPLICATION FILED U/SEC.5 OF
LIMITATION ACT**

The applicant/petitioner herein has filed an application U/s.5 of Limitation Act for condone the delay in filing the appeal, in the interest of justice and equity.

2. It is contended in the accompanying affidavit to I.A.No.I that, the petitioner No.1 was married to one Madabhovi of Palya Village, Kasaba Hobli, Nanjangud Taluk, Mysur District, as such the said petitioner No.2 by name Lakshmi and another by name Manjula who was married away as stated above are born to the said Madabhovi of Palya Village and the said Madabhovi was working as a mason work/gaare kelasa and about 10 years back the said Madabhovi of playa Village was absconded away as such he has not been found anywhere till now.

Further contended that, the Revision petitioner has been suffering from ill health and cervical OPLL with grade IV Myelopathy Surgery was done to him on 16-07-2020 in the concerned Brindavan hospital at Mysuru as such he has been in bed ridden since from 2020 to till now and even now. The Revision petitioner is herewith have produced the medical reports and other necessary documents to show his ill health and his bedridden. Hence he is not hail and healthy and he is not in a

position to earn any money. Similarly except the residential house there is no such properties are there to him. Similarly he has already been got married with one Puttamma and he has got two male and one female children to her. But he is not at all married with the said petitioner no.1 Nagamma at any point of time as falsely alleged by her in the said petition.

Further contended that, the Respondents have filed the Recovery petition bearing Crl.Misc.No.455/2024 before the trial court on the basis of said final orders passed in said Crl.Misc.No.318/2017 and the said case is also still pending and in the said case the Respondents have taken NBW and FLW against this Revision petitioner and the said case posted to 21.11.2024 for execute the same against the Revision petitioner. In case if the said warrant is executed against the Revision petitioner then much hardship and loss and injuries will caused to him and also to his family members which cannot be compensated in any manner what so ever. Hence the petitioner has also filed a necessary application to order for stay the operation of said maintenance orders passed on 07-12-2023 by the trial court in said Crl.Misc.No.318/2017 and also order for stay the further proceedings of the said Recovery petition bearing Crl.Misc.No.455/2024 filed by the Respondents no.1 and

2 against the Revision petitioner till disposal of the above Revision petition.

Further contended that, the Revision petition filed by the petitioner now is in time because after passed the said maintenance final orders by the trial court on 07.12.2023 the Revision petitioner could not contact his counsel due to he has been suffering from ill health by got cervical OPLL operation on 16-07-2020 as such since from he has been in bedridden, hence he is unable to come and contact his counsel to file Revision against the said final orders with in time. Similarly even now he could not sit and stand himself personally and also he could not attend his personal daily needs as earlier.

Further contended that, recently the Revision petitioner has obtained the certified copies of said final orders passed. lately recently on 12-08-2024 due to personal inconveniences and unavoidable circumstances and also due to his ill health as bed ridden till now and even now as stated above. Hence now the Revision petitioner has filed this Revision petition for set aside the said maintenance orders passed as sought above is in within time as per law as such the petitioner has filed this application for condone the delay if any caused in filing this Revision petition for set aside the said maintenance final orders passed by the Prl Civil Judge

and JMFC Court at Nanjangud on 07-12-2023 in CrI.Misc.No.318/2017. Hence, prayed to allow the application.

3. The respondents have not filed objection to I.A.No.1.

4. Heard both sides.

5. The points that arise for consideration are:

1. Whether the petitioner has made out grounds to allow I.A.No.I, to condone the delay ?
2. What order?

6. 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

7. The petitioner has challenged the order dated 07.12.2023 in CrI.Msic.No.318/2017 on the file of PrI. Civil Judge and JMFC, Nanjangud. The petitioner herein the respondent husband and the respondents herein are the petitioner before the trial court. The respondent No.1/petitioner has filed petition under Sec.125 of

Cr.P.C., seeking maintenance against the respondent husband/petitioner. The trial court has allowed the petition in part and held that, 1st petitioner is entitle for Rs.3,000/- maintenance and the 2nd petitioner is entitle for Rs.3,000/-. Aggrieved by the said order present petition is filed.

8. Along with the petition the petitioner has maintained application under Sec.5 of Limitation act, for condonation of delay in preferring the petition. The some and substance of the ground urged for condonation of delay is that, the petitioner is suffering from ill health and cervical OPLL with grade IV Myelopathy surgery done on the petitioner. As such, he is bed ridden since 2020. because of the said reason he could not prefer petition in time. In order to substance said contention the petitioner has produced medical documents. The said application was contested by the respondents.

9. The petitioner has challenged the impugned order on many grounds. It is urged by the petitioner that, he has suffered ill health and underwent surgery because of that, there is delay in preferring the appeal. On careful perusal of the records, the petitioner has challenged the correctness and legality of the impugned order, same has to be scrutinized in the present revision petition. However, there is delay in preferring the petition. But, the

petition has to be considered on merits and rights of the parties is to be adjudicated. The reason assigned by the petitioner is supported with medical documents. Be that it may with regard to the medical ground urged by the petitioner. But, the legality and correctness of the petition is to be scrutinize in the this petition. Hence, considering these aspects the present application deserves to be allowed.

10. On and often, the Hon'ble Supreme Court has held that the approach of the courts should be liberal in condoning the delay in appropriate cases. Time and again, it is also held that the reason for delay of each and every day should not be looked into while condoning the delay. The revision is a statutory right of the party to the proceeding. If, the delay is condoned and the revision is decided on merits, no injustice would be caused to the respondent. On the other hand, if the application is rejected certainly great injustice would be caused to the petitioner. Hence, as the petitioner has made out ground to allow the application and to meet the ends of justice. This court is of the considered opinion that the application deserves to be allowed, in the interest of justice and equity. Accordingly, I answer Point No.1 in the **Affirmative**.

POINT NO.2:

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

ORDER

The application filed by the petitioner under Section 5 of Limitation Act for condonation of delay is hereby **allowed**.

The delay of 320 days in filing the revision is hereby **condoned**.

III ADJ., Mysuru.