



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

Dated this the 9th day of February 2026

:: PRESENT ::

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

LAC(APPL)/101/2023

APPELLANTS ::

- Sri Somashekaraiah
(Dead by Lr's)
1. Sri Shivananda,
S/o Late Somashekaraiah,
Aged about 50 years.
 2. Sri Nataraju,
S/o Late Somashekaraiah,
Aged about 48 years.
 3. Smt. Rani,
W/o Jagadish,
D/o Late Somashekaraiah,
Aged about 43 years.
 4. Smt. Jyothi,
W/o Ganesh,
D/o Late Somashekaraiah,
Aged about 40 years,
R/at Karugahalli Village,
Doddabagilu Post,
T.Narasipura Taluk,
Mysuru District.

Appellant No.1 to 3 are
R/at Varuna Village,
Varuna Hobli,
Mysuru Taluk.

(By : Sri. S.A.S., Adv.,)

V/s

RESPONDENT :: : The Special Land
Acquisition Officer,
Kabini Reservoir Project,
Near Andolana Circle,
MUDA Building,
Ramakrishnagara, Mysuru.

(By - ADGP.,)

Parties to the I.A.

APPLICANT/s : Shivananda Appellant No.1

V/s

OPPONENT : The Special Land
Acquisition Officer Respondent

ORDERS ON IA UNDER SECTION 5 OF LIMITATION ACT

This Appeal is filed U/Sec.54 of the Land Acquisition Act, challenging the Judgment and Decree dated 22.07.2008 of LAC.No.948/2007 passed by the learned I Addl. Sr. Civil Judge and CJM, Mysuru.

2. The brief facts of the case is as hereunder ;

It is the contention of the Appellants that, the land bearing Sy.No.544/1 measuring 1 acre situated at

Varakodu Village, Varuna Hobli, Mysuru Taluk, is acquired for the purpose of formation of Varuna Channel. It is the case of the Appellants, without considering evidence produced by the parties vide Judgment and Decree dated 22.07.2008 the Trial Court has enhanced the compensation at the rate of Rs.1,51,000/- per acre and the same calls for interference by this Court. Being aggrieved by the impugned Judgment and Decree dated 22.07.2008, the Appellants have preferred the appeal among other grounds.

3. Vide IA U/Sec.5 of the Limitation Act the Appellants prayed to condone the delay in preferring the appeal. In support of the application, the Appellant No.1 has sworn to an affidavit and prayed to read the grounds urged in the appeal memo as part and parcel of the affidavit. It is his contention that, he could not able to prefer the above appeal within the stipulated time as provided under law since he was out of station as he went to Bangalore for coolie work to eke out his livelihood. Further due to lack of legal knowledge, poverty and helplessness he was not able to contact his counsel to give necessary instructions to prefer this appeal with the necessary documents. Thus there is delay caused in preferring the appeal, hence, the application for condonation of delay. The land of the Appellant in L.A.C.A. 11/2019 namely Marithammadigowda and his land are

situated in same village and acquired for the same purpose. Recently he came to know that enhanced compensation awarded by the III ADJ Mysuru in LACA No. 11/2019, hence, on that ground also he entitled to get enhanced compensation. He has lost his valuable land for public purpose. If the application is not allowed, he will be put to untold hardship, injury and inconveniences. On the other hand, no hardship will be caused to the other side, if the application is allowed. With all other grounds, the Appellants prayed to allow the application filed U/Sec.5 of the Limitation Act.

4. The ADGP has filed Memo of Appearance for Respondent and filed objections to I.A contending that the appellant has sworn to a false affidavit by suppressing the real facts and hence the averments made in the affidavit are all false and concocted and created one. Hence the appellant is put to strict proof of the same. The averments made in all paras of the affidavit are false and not correct. Hence it is submitted that, the appellant has not furnished details for 5161 days of delay, Appellants were aware of the other court order and also obtained certified copy inspite of it now without any believable reasons filed the appeal after laps of more than 5161 days. Even the appellant has not made out prima facie case, even the balance of convenience is not lies in his favour. All the averments made in the affidavit which is not specifically traversed

herein and contrary to the objection statement are hereby denied as false. It is submitted the appellant already received the higher enhancement of compensation amount in execution petition and filed the Memo for fully satisfaction and that the appellant filed the above appeal is not maintainable under law. Appellant has not paid the sufficient proper court fee on the basis of market value of the enhancement compensation amount. Hence this application may be dismissed with costs.

5. Heard the arguments and 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. 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

8. **POINT NO.1:** During inquiry, the Appellant No.1 has sworn to affidavit, 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, he could not able to prefer the above appeal within the stipulated time as provided under law since he was out of station as he went to Bangalore for coolie work to eke out his livelihood. Further due to lack of legal knowledge, poverty and helplessness he was not able to contact his counsel to give necessary instructions to prefer this appeal with the necessary documents.

9. In the case on hand, vide application under consideration the Appellants prayed to condone the delay in preferring the appeal on the ground that, he is poor and helpless person, he could not able to prefer the appeal within the stipulated period, since he was not aware of the legal procedure further he came to know recently about the higher compensation awarded by the III Addl. District and Sessions Judge, Mysuru to other land losers, further due to his economically crises he was not in a position to contact his counsel to instruct him to prefer the appeal to file the same earlier. By taking into consideration of the grounds urged by the Appellants, it appears that though the reasons assigned may not be fully justifiable the long delay, what is necessary to be kept in view is that similarly placed landlords have been granted a higher compensation

and the Appellants are also seeking a similar compensation, hence, there is necessity to condone the delay in preferring the appeal subject to the condition that the Appellants are not entitled for interest for the said delayed period. With this observation, this Court is of the opinion, the Appellants herein have made out a ground to allow the application filed U/Sec.5 of Limitation Act. Accordingly, I answered 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 Gr-III, directly on computer, corrected and then pronounced by me in the open Court on this the **9th day of February 2026**]

[Mallanagouda]

II Addl. District & Sessions Judge,
Mysuru.