

KASM300010132025



**IN THE COURT OF PRL. SENIOR CIVIL JUDGE AND JMFC., AT
BHADRAVATHI.**

Dated this the 8th Day of January, 2026

PRESENT: Sri. Raghavendra.D, B.Com., LL.B.,
Prl. Sr. Civil Judge and JMFC.,
Bhadravathi.

R.A.No.63/2025

Appellants: Sri.R.Manjappa and another

(By Sri.G.S.M, Adv.)

Vs.

Respondents: Sri.Basavarajappa and others

(By Sri.H.R.M., Adv)

PARTIES TO I.A.No.I

Applicant/Appellant No.1: Sri.R.Manjappa

Vs.

Opponents/Respondents: Sri.Basavarajappa and others

ORDERS ON IA No.I

The appellant No.1 filed an IA No.I under Section 5 of Limitation Act, praying to condone the delay of 185 days in preferring this appeal.

2. The application is accompanied by an affidavit sworn by the appellant No.1. In his affidavit he has stated that he is conversant with the facts of the case. Himself and another appellant have filed this appeal. He obtaining the judgment and decree on 08.11.2024. He has filed this appeal after lapse of appeal period. Though he has obtained the judgment and decree but he unable to contact his counsel. As such, he has not filed appeal in time.

3. On service of notice respondents appeared before the court and filed objections by contending that the application is not maintainable. There is a delay of more than 180 days. There is no reason to condone the delay. Hence, prays to dismiss the application.

4. The appellant No.1 stepped into witness box and filed an affidavit in lieu of chief examination by reiterating her IA averments and examined as PW1. The respondents have not led their side of evidence.

5. Heard arguments of both side and perused the materials available on record.

6. Now the points that would arise for my consideration are;

1) Whether appellant No.1 has made out sufficient grounds to condone the delay in preferring this appeal?

2) What Order?

7. My answers to the above points are as follows;

Point No.1: In the affirmative

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

REASONS

8. **Point No.1:** The appellants filed suit before trial court in O.S.No.376/2018 for permanent injunction and same was dismissed on merit. Aggrieving the judgment and decree passed by the learned trial judge on 08.11.2024, the appellants have preferred the present appeal before the court along with IA under Section 5 of Limitation Act praying to condone delay in 185 days.

9. The appellant No.1 in his affidavit he has stated that he has obtained the copy of judgment and decree, but he unable to contact his counsel in time. As such, there is a delay in preferring this appeal. Further in his chief examination he has deposed that well wishers and their villagers made compromise between them and

respondents told to him that he will give road but he has not comply the advice of villagers. As such, he has secured the judgment and decree before trial court, but due to contact his counsel he has not filed the appeal.

10. In his cross examination he has deposed that at the time of pronouncing of the judgment he was present and he preferred the appeal after lapse of 8 to 10 months. At the time negotiations there is no written document. Further he has deposed that he is hale and healthy and attending his agricultural work.

11. On perusal of cross examination of PW1, he was hale and healthy and attending his agricultural activities and he has also obtained the copy of judgment in time but he has not preferred the appeal well in time. The appellants in their affidavits they have stated that he has not contacted his counsel in time. As such, there is a delay in preferring this appeal. On perusal of entire record, due to some personal convenience of the appellant, he might not contact his counsel to file this appeal. Only on the ground there was a delay of 185 days in preferring this appeal the entire appeal cannot be rejected. Hence, it is just and proper to give an opportunity to appellant to putforth his case. On perusal of entire record evidence placed by the appellant is sufficient to condone the delay. On

perusal of affidavit averments and evidence placed by the appellant due to his personal inconvenience he unable to contact his counsel to prefer this appeal in time. It is well settled principle that the delay has to be condoned liberally. The reasons assigned by the appellant in his affidavit are sufficient to condone the delay in preferring this appeal. Hence, I answered **point No.1 in the affirmative.**

12. **Point No.2:-** In view of discussion on point No.1, this Court proceeds to pass the following:

ORDER

The IA filed by the appellant under Section 5 of Limitation Act is hereby allowed on cost of ₹.100/-.

The delay in 185 days preferring this appeal is condoned.

TCR already received.

For arguments by 17/01/2026.

(Dictated to the Stenographer, typed by her, corrected and then pronounced by me in the open court on this the 8th day of January, 2026)

(Raghavendra.D)
Prl. Sr. Civil Judge and JMFC.,
Bhadravathi.