



**IN THE COURT OF ADDL. SENIOR CIVIL JUDGE & JMFC,
GUBBI.**

PRESENT

SMT. POORNIMA K. YADAV, B.A. LL.B., LL.M.,

Addl. Sr. Civil Judge & JMFC, Gubbi.

Dated on this the 22nd day of July, 2026

RA NO. 50/2025

Appellant/s :1. Dharanesh H.B.
S/o Late Basavarajaiah,
Aged about 48 years,

2. Guruprasad H.B.
S/o Late Basavarajaiah,
Aged about 45 years,

Both R/at Udde Hosakere,
Somalapura Post,
Nittur Hobli,
Gubbi Taluk,
Tumakuru District.

(Plaintiff in OS No. 06/2018)
(By Sri H.M.H., Adv.)

Vs.

Respondent/s: 1. Siddagangamma
W/o Late Basavarajaiah,
Aged about 56 years,

2. Rashmi,
D/o Late Basavarajaiah
Aged about 32 years,

Both are R/at Udde Hosakere,
Somalapura Post,
Nittur Hobli,



Gubbi Taluk,
Tumakuru District.

(Defendants in OS NO. 6/2018)

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

PARTIES TO I.A.NO.I

Applicant : Guruprasad H.B.

(2nd Appellant)

Vs.

Opponent : Siddagangamma And Another

(Respondents)

Provision under the Application	Under Section 5 of Limitation Act
Application Relief sought for	To condone the delay in filing this appeal
The date of the application is filed Interlocutory Application Number	07.11.2025
Interlocutory Application Number	I
Date of objection filed by the Respondent	Not filed
Date of order passed	22.07.2026

Sd/-

(POORNIMA K. YADAV)

Addl. Senior Civil Judge &
JMFC, Gubbi.

:ORDERS ON I.A.NO.I:

The appellants through their counsel filed this application under Section 5 of Limitation Act seeking to



condone the delay of 1827 days in filing this appeal.

- 2.** The application is accompanied with the affidavit of the appellant No.2, wherein it is stated that the suit came to be decreed on 21.02.2019 and the appellants applied for certified copy of the judgment on 11.11.2024 and same was delivered on 22.01.2025. Due to health and financial issues, the appellants could not contact their counsel and give instructions for filing of appeal within time. As such there is delay of 1827 days in filing the present appeal. The delay in filing the appeal is unintentional. Hence, sought to allow the application.
- 3.** On the other hand, respondent No.1 and 2 did not file objection to the application.
- 4.** The appellant No.2 got examined himself as PW1 but did not produce any documentary evidence.
- 5.** Heard both the counsel.
- 6.** Upon hearing and based upon the materials available on record, the point that arise for my consideration is:

Whether the appellants have shown



sufficient cause to condone the delay in preferring this appeal?

7. My finding to the above point is in the '**Negative**' for the following :

REASONS

8. Admittedly, this appeal is filed by the appellants/plaintiffs challenging the judgment and decree of OS No. 06/2018 passed by the Addl. Civil Judge and JMFC, Gubbi on 21.02.2019 seeking relief of partition and separate possession in respect of item no.1 to 3 of the suit schedule properties. This application is filed seeking condonation of delay of 1827 days in preferring the appeal against the said Judgment dated 21.02.2019.
9. PW1 in his affidavit evidence reiterated the application affidavit averments as such, I do not want to repeat the same. PW1 deposed that there is delay of 1827 days in preferring the appeal. PW1 urged that due to health



issues and financial issues, the appellants could not file the appeal with in time.

- 10.** The materials on record discloses that the appellants had filed suit in OS No. 06/2018 seeking relief of partition and separate possession and the said suit came to be partly decreed with costs in respect of item no.1 and 2 of the suit schedule properties and the suit came to be dismissed in respect of item no.3 of the suit schedule property.
- 11.** Order 41 Rule 3A of CPC provides that when appeal is presented after expiry of the period of limitation, it shall be accompanied by an application supported by affidavit setting forth the facts on which the appellant relies to satisfy the court that he had sufficient cause for not preferring the appeal with in such period.
- 12.** In the instant case, the affidavit evidence of PW1 states that due to health and financial issues, the appellants could not file the appeal with in time. When the said evidence is considered, it is seen that the evidence is



lacking details of health issues suffered either by the appellant no.1 or appellant no.2 or both and there are no details of financial issues suffered by the appellants. Not only the said details are missing in the affidavit evidence of PW1 but there is no single document produced by the appellants to prove the facts of health and financial issues suffered by them.

- 13.** That apart, the affidavit of the appellant no.2 accompanying the present application shows that though the judgment of 06/2018 was pronounced on 01.03.2019, the appellants applied for obtaining certified copy of the judgment on 11.11.2024 and they received the same on 22.01.2025. This clearly shows that the appellants applied for obtaining certified copy of the judgment after lapse of 5 years 10 months 21 days (2154 days) after the judgment was pronounced. This appeal is filed on 10.11.2025 i.e., after 09 months 19 days (292 days) after receiving the certified copy of the judgment and after lapse of 6 years 7 months 9 days (2415 days)



after the period of limitation prescribed to prefer regular appeal.

- 14.** the above discussed oral evidence and materials on record clearly establishes that the appellants failed to explain the inordinate delay of 6 years 7 months 9 days (2415 days) in preferring this appeal. Sacrosanct pleading of the appellants suffering from health and financial issues will not help the appellants in seeking for condonation of delay of 2415 days. Hence, this court is of the opinion that the appellants failed to show sufficient cause for not filing of the present appeal within. Accordingly, I proceed to pass the following:

ORDER

I.A. No.1 filed by the appellants under Section 5 of Limitation Act is hereby rejected on costs of Rs.2000/-.

Hence, this appeal is dismissed as barred by limitation.



***Office shall forthwith
intimate the trial court about
dismissal of the appeal.***

(Directly dictated to the stenographer on the computer,
printed through steno, corrected by me and then
pronounced in the open court on this the **22nd day of
July, 2026**)

Sd/-
(POORNIMA. K. YADAV)
Addl. Sr. Civil Judge & JMFC,
Gubbi.