

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC.,
SHAHAPUR.

Present: **Smt.Hema Pastapur**,B.A., LL.B.
Senior Civil Judge, and JMFC, Shahapur.

R.A.No.No.17/2021

Dated this 04th day of December -2025

Appellant

Mohd. Irfan, S/o Mohd. Osman Akeri,
Age 41 years, Occ. Business, R/o Vidya
Nagar, Shahapur.

(By Sri. S.G.H.,Advocate).

Versus.

Respondents

1. Taherabegum W/o late Mohd. Osman
Areri, Age 80 years Occ.Household, R/o
Vidya Nagar, Shahapur.

2. Mohd. Imran S/o. Mohd. Osman
Arkeri, Age 33 years, Occ. Business, R/
o Vidya Nagar, Shahapur

**(Respondent No.1 by Sri. V.M.F.,
Advocate)**

**(Respondent No.2 by Smt. P.N.J.
Advocate)**

IA No.II

Dated: 26-08-2021

Objections filed on 18-10-2022

Disposal off IA No.II dated 04-12-2025

ORDER ON I.A.NO.II

1. That, the appellant has filed the application under Section 5 of Limitation Act, with a prayer to condone the delay of 700 days which was caused in preferring the present appeal.

2. That, the appellant in his affidavit has has contended that he was not a where of judgment and decree passed against him and he was not in position to pay the required court fee in lump sum with appeal and however to avoid the delay he got managed and filed the present appeal and in that process the alleged delay was caused.

3. That, the respondent No.1 his objections to said application and contending that, the appellant has not assigned sufficient cause to condone the alleged delay. Hence, prayed for rejecting the said application.

4. That, I have heard the arguments and perused the materials placed on record. That, the following points arise for My consideration and determination :-

1. Whether the appellant has made out the grounds for condoning the alleged delay?

2. What order?

5. That, the appellant to substantiate his aforesaid contentions has deposed himself as PW1 and got marked the documents at Exs.P1 to 14 and closed his side.

6. That, My answer to the aforesaid points are as under:-

Point No.1:- In the **AFFIRMATIVE.**

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

REASONS

7. **Point No.1:-** That, the PW1 in his chief affidavit has reiterated the averments of said application. That, the appellant has submitted his written arguments.

That, the respondent No.1 has submitted his written arguments and relied upon the following decision;

RSA No.1110/2021

Sri. Narayanappa & Others

V/s

Sri. Erappa & others.

Wherein it has held that, unless, each day delay is explained and sufficient cause is shown to condone the delay, the question of condoning the delay in filing the appeal does not arise.

8. It is to be noted here that, the primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice. That, the time limit fixed for approaching the Court in different situations is not because on the expiry of such time a bad cause would transform into a good cause. It must be remembered that, in every case of delay, there can be some lapse on the part of the litigant concerned and that alone is not enough to turn down his plea and to shut the door against him. That, if the

explanation does not smack malafides or it is not put forth as part of a dilatory strategy, the Court must show utmost consideration to the suitor.

9. That, in a particular case whether explanation furnished would constitute sufficient cause or not will depend upon the facts of each case. There cannot be a straitjacket formula for accepting or rejecting explanation furnished for the delay caused in taking steps. But, one thing is to clear that the Courts should not proceed with the tendency of finding fault with the cause shown and reject the petition by a slipshod order in over jubilation of disposal drive. That, acceptance of explanation furnished should be the rule, and refusal, an exception, more so, when no negligence or inaction or want of bonafides can be imputed to the defaulting party. That, the proof by sufficient cause is a condition precedent for exercise of the discretionary jurisdiction vested in the Court.

10. It is to be noted here that, the respondents in cross examination of PW1 have try to elicit that due to his negligence the alleged delay was caused but, nothing has been elicited from him.

11. It is to be noted here that, as discussed above, acceptance of explanation furnished should be the rule, and refusal, an exception, more so, when no negligence or inaction or want of bonafides can be

imputed to the defaulting party. That, the proof by sufficient cause is a condition precedent for exercise of the discretionary jurisdiction vested in the Court. That, the appellants have assigned the reasons for not preferring the present appeal within a stipulated period. Hence, said application is deserves to be allowed. Hence, without much discussion, point No.1 is answered in the **AFFIRMATIVE**.

12. **Point No.2:-** That, as discussed on point No.1, I proceed to pass the following :-

ORDER

That, the application filed by the appellant in I.A.No.II is allowed on cost of Rs.200/-.

That, the delay of 700 months which was caused in preferring this appeal is hereby condoned.

(Directly dictated to the typist-copyist, typed by him, corrected by me and then pronounced in the open Court on this the 04th day of December -2025).

(Hema Pastapur)
Sr. Civil Judge and JMFC,
Shahapur.

:-ANNEXURE:-

List of witnesses examined for appellants:-

PW.1 : Mohd. Irfan S/o Mohd. Osman Arakeri

List of documents marked for appellants:-

Ex.P1 : Notary attested copy of tax paid receipt

Ex.P2 : Bebaki patra

Ex.P3 : endorsement issued by the Postal authority

Ex.P4 :Letter written by PW1 to the post office
Ex.P5 to 10 : Postal recpits
Ex.P11 : Postal acknowledgment
Ex.P12 : Tax paid receipt
Ex.P13 & 14 : Pass books

List of witnesses examined for the Respondents:-

-- NIL --

List of documents marked for Respondents:-

-- NIL --

**(Hema Pastapur)
Sr. Civil Judge and JMFC,
Shahapur.**