



**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.40/2019

Dated this 2nd day of April-2026

Appellant

Gangamma W/o Honnappa Haddi,
W/o Bojappa Jadi, Age 45 Years, Occ:
Agri & House-hold, R/o Sagar (B), Tq.
Shahapur, Dist. Yadgir. Died by her
Lrs.

1. Mallamma W/o Late Bhimanna
Haddi, Age 45 years, Occ: Agri &
House-hold,
2. Malappa S/o Late Bhimanna Haddi,
Age 21 years, Occ.Agri,
3. Suresh S/o Late Bhimanna Haddi,
Age 18 years, Occ. Student,
4. Sharanappa S/o Late Bhimanna
Haddi, Age 16 years (Minor)
(The L.Rs.No.4, is the minor U/Gship
of their natural mother Lrs.No.1 by
name Mallamma is care and custody)
5. Ningappa S/o Honnappa Haddi, Age
40 years, Occ. Agri,
6. Ayyappa S/o Honnappa Haddi, Age
38 years, Occ. Agri,
7. Sopanna S/o Honnappa Haddi, Age
36 years, Occ. Agri,

8. Maharaj S/o Honnappa Haddi, Age 35 years, Occ. Agri,
 9. Sabamma D/o Honnappa Haddi, (W/o Mallappa), Age 32 years, Occ. Agri and House-hold,
- All are R/o Village Sagar (B), Tq. Shahapur, Dist. Yadgir.

(By Sri. S.S.K.,Advocate)

Versus.

- Respondents**
1. Kavita W/o Bhimanna Sagar, Age 22 years, Occ.House-hold, R/o Sagar (B), Tq. Shahapur, Dist. Yadgir, Now residing at Tumkuru, Tq. Wadagera (Shahapur) Dist. Yadgir, Died by her Lrs
 - 1(a) Deepa D/o Bhimanna Sagar, Age 13 years, Occ.(Minor)
 - 1(b) Basavaraj S/o Bhimanna Sagar, Age 10 years, Occ.(Minor),
 - 1(c) Divya D/o Bhimanna Sagar, Age 08 years, Occ.(Minor),
 - 1(d) Bhimanna S/o Basavaraj Sagar, Age 40 years, Occ. Business, (Husband of deceased Kavita)
- (The respondent No.1(a), (b), (c), are minors under guardianship of their natural father of respondent No.1(d) care and custody)
- All Residing at Village Tumkur, Tq. Wadagera, Dist. Yadgir.
2. Lalitamma D/o Bhimanna Jadi, Age 20 years, Occ. House-Hold,
 3. Shashikala D/o Bhimanna Jadi, Age 19 years, Occ.House-Hold,
 4. Rajeshwari D/o Bhimanna Jadi, (Minor), (Died)
 5. Devindramma D/o Bhimanna Jadi,

Age 46 years, Occ. House-Hold,
All are Aikur, Tq. Wadagera, Dist.
Yadgir.

6. Sopanna S/o Bhojappa Jadi, Age 62 years, Occ. Agriculture, R/o Sagar (B), Tq. Shahapur, Dist. Yadgir.
7. Bhimanna S/o Bhojappa Jadi, Died by his Lrs (Plaintiff No.1 to 3 and 5 are legal heirs)
8. Chandappa S/o Sanjeevappa Kottoru Age 70 years, Occ. Agriculture,
9. Ningamma W/o Sopanna Jadi, Age 61 years, Occ. Agriculture,
10. Gouramma W/o Hanamanth Jadi, Age 40 years, Occ. Agriculture,
11. Ayyamma W/o Hanamanth Jadi, Age 40 years, Occ. Agriculture & House hold,

R/o Rotanadagi, Tq. Shahapur Dist.
Yadgir.

**(Respondents No.1 to 3, 1(a to d), 5
by Sri. CTD., Advocate).**

**(Respondents No.4(a to d), 8 to 11-
Absent.**

**(Respondent No.6 by Sri. S.S,
Advocate).**

**(Respondent No.7 died Lrs on
record.**

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IA No.I

Dated: 10-12-2019

Objection filed on 05-02-2021

Disposal off IA No.I dated 02-04-2026

ORDER ON I.A.NO.I

1. That, the appellant has filed the application under Section 5 of Limitation Act, with a prayer to condone the delay of 2210 days which was caused in preferring the present appeal.

2. That, the appellant No.6 in her affidavit has contended that as she is suffering from jaundice she was taking Ayurvedhik treatment for a long time and for which she could not contacted her learned counsel. Hence, the alleged delay was caused.

3. That, the respondents No.2, 3 and 5 have submitted their detailed objections to said application and have contended that, the appellants have not explained the said delay properly and have not made out any valid ground to condone the 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 Lr No.5 of the appellant has deposed as PW1 and the appellants have got examining one Shri. Melappa S/o Mallappa Kudlur as PW2 and have not got marked any document and closed their 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.

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 appellants though have not assigned the sufficient grounds for filing the preset appeal after inordinate delay, but 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. Hence, said application is deserves to be allowed. Hence, without much discussion, point No.1 is answered in the **AFFIRMATIVE.**

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

ORDER

That, the application filed by the appellants in I.A.No.I is allowed on cost of Rs.1000/-.

That, the delay of 2210 days 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 2nd day of April -2026).

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

:-ANNEXURE:-

List of witnesses examined for appellants:-

PW.1: Ningappa S/o Honnappa.

PW.2: Melappa S/o Mallappa Kudlur.

List of documents marked for Appellants:-

-- Nil --

List of witnesses examined for the Respondents:-

-- NIL --

List of documents marked for Respondents:-

-- NIL --

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