

**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.34/2024**

**Dated this 13<sup>th</sup> day of November-2025**

**Appellants**

1. Smt. Hanamanti D/o Marilingappa Nandahalli, Age 43 years, Occ: House hold,
  2. Malleshi S/o Marilingappa Nandahalli, Age 40 years, Occ. Agriculture,
  3. Manjula D/o Mailarappa Nandahalli, Age 35 years, Occ: House hold,
- All are R/o Village Bendebembali, Tq. Wadagera, Dist. Yadgir.

**(By Sri. S.N.D., Advocate).**

**Versus.**

**Respondents**

1. Yankanna S/o Mailarappa Nandahalli, R/o Village Bendegambli, Tq. Shahapur, Dist. Yadgir died through his LR's
  - 1(a) Jyoti W/o Yankanna Nandahalli, Age 34 years, Occ: House hold,
  - 1(b) Manoj S/o Yankanna Nandahalli, Age 16 years, Occ.Agri,
  - 1(c) Ankita D/o Yankanna Nandahalli, Age 14 years, Minor Occ. Student,

The LR No.b to d are minors they are under guardianship of their natural mother i.e., LR No.1(a)

All are R/o Village Bendegambali, Tq. Wadagera, Dist. Yadgir
2. Mallamma W/o Marilingappa Bendebembali, Age 55 years, Occ.

House hold, R/o Near Yallapur Oni, Korki, Basaveshwar Nagar Hubli.

3. Shivamma W/o Jubalappa, Age 60 years, Occ.Agriculture, R/o Village Bendebembali, Tq. Wadagera, Dist. Yadgir (She died on 19-06-2021 died issueless. The appellants and respondents are heirs and successors of deceased who are all already on record).
4. Bhimaraya S/o Balappa Kyathnal, Age 60 years, Occ. Agricultural, R/o Village Benakanahalli (K), Tq. Shahapur, Dist.Yadgir.
5. Marilingappa S/o Bhimaraya Kyathnal, Age 35 years, Occ. Agricultural, R/o Village Benakanahalli (K), Tq. Shahapur, Dist. Yadgir.

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**ORDER ON I.A.NO.I**

1. That, the appellants have filed the application under Section 5 of Limitation Act, with a prayer to condone the delay of 527 days which was caused in preferring the present appeal.

2. That, the appellant No.1 in her affidavit has has contended that the trial court had passed the judgment in OS No.225/2016 on 23-01-2023 and on the date of pronouncing the said judgment and she and other defendants were residing at Hubli for their lively wood and when they visited their village heard about the rumors about the

disposal of the said suit. Hence, the said delay was occurred in filing this appeal.

3. That, the respondents No.4 and 5 have submitted their objections to said application and contending that, the appellants have not made out the grounds to allow the said application and they have not acted with reasonable diligence and all the appellants are residing at Bendebembali Village, Tq. Wadagera. 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 appellants have made out the grounds for condoning the alleged delay?
2. What order ?

5. That, the appellant No.2 to substantiate his aforesaid contentions has deposed himself as PW1 and got marked the document at Exs.P1 and 2 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 respondents No.4 and 5 have placed their reliance on following decisions;

1. **1999 (2) CCC 348 (Pat)**  
**State of Bihar & Others**  
**V/s**  
**Anil Prasad Singh & others.**

**Wherein it has held that, Term “sufficient cause” or “good cause” in Limitation Act for delay condonation means a period which is beyond control of party seeking indulgence for extension of period of limitation.**

2. **2017 (1) CCC 191 (Raj)**  
**Jitendra Singh and Anr.**  
**V/s**  
**The Charitable Trust**

**Wherein it has held that, Limitation Act , 1963- Section -5- condonation of delay in filing- Sought on found that the counsel during trial did from him about the impugned judgment and that he changed his counsel- He seeks condonation on ground that he had no knowledge of the impugned judgment- Records showing his**

**counsel remaining same at the time of impugned judgment and thereafter – Petitioner thus indulging in falsehood- Further, a litigant should be vigilant and keep himself informed- Bald assertions that the counsel did not inform about the disposal of the application, cannot be considered to be a plausible explanation for condonation of inordinate delay- Petition for condonation rejected.**

**3. 2002(3) CCC 247 (J & K)**

**Pankaj Khanna & Anr.**

**V/s**

**Bismillah Gold and Silver Ornaments**

**Wherein it has held that, Limitation Act 1963- Section -5 Money decree – Appeal with delay condonation of 601 days – Sufficient cause is to be liberally construed when no negligence or inaction or want of bonafides is imputable to party- Cause attributable to negligence or inaction could not be a sufficient cause- Applicants had full knowledge of decree passed in presence of their counsel and then dismissal of their application for setting aside the decree- No explanation for delay in filing appeal- Court can not grant indulgence out of sheer benevolence – Application was liable to dismissed.**

**4. 1999(4) CCC 416 (A.P)****Dudam Bharathi****V/s****Gajula Sujatha and Ors.**

**Wherein it has held that, Discretion to condone delay in filing appeal has to be exercised judiciously and approach, should be liberal and pragmatic and not pedantic but the Court should not lose sight of statutory requirement of existence of “sufficient cause”.**

**5. 2013(2) CCC 178 (Guj)****Nazmabegum Noormohammed Rangrej @ Nazmabanu Fahimbahi****V/s****State of Gujarat & Ors.**

**Wherein it has held that, If the delay is for a short period, court may be lenient view of the matter for exercising discretion to condone the delay whereas if the delay is long period strict approach is called for in exercises of the.**

**6. 1997(3) CCC 435 (Gau)****United India Insurance Co.Ltd****V/s****Smt. Jyotna Rani Baishya & Ors.**

**Wherein it has held that, Limitation Act, 1963- Section 5- Condonation of delay- While hearing on point of condonation of delay as to**

**meet ends of justice it is not expected as to explain every day's delay in preferring appeal- Ground taken with regard to lawyer for appellant having knowledge in not informing appellant in time not be good ground for delay in preferring appeal in time- Not fit case for condonation of delay in preferring appeal.**

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 though, the PW1 in his cross-examination has admitted that he and his sisters have filed the OS No.225/2016 on the board of the Civil Judge, Shahapur and in the said suit they have given their address and in present appeal they have shown their addresses as mentioned in the said suit.

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 appellants in I.A.No.I is allowed on cost of Rs.200/-.

That, the delay of 527 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 13<sup>th</sup> day of November -2025).

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

**:-ANNEXURE:-**

**List of witnesses examined for appellants:-**

PW.1: Malleshi S/o Marilingappa

**List of documents marked for appellants:-**

Ex.P1: Original Election Identity Card of PW1

Ex.P2: Original Aadhar Card of PW1

**List of witnesses examined for the Respondents:-**

**NIL**

**List of documents marked for Respondents:-**

**NIL**

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