



IN THE COURT OF II nd ADDL.DISTRICT AND SESSIONS
COURT, YADGIR,
SITTING AT SHORAPUR.
:PRESENT:

Sri. Yamanappa Bammanagi, B.A.LL.B (Spl.)
II nd Addl. District & Sessions Judge, Yadgir,
sitting at Shorapur.

DATED THIS THE 06th DAY OF JUNE, 2026.

Civil.Misc.NO.5005/2025

Petitioners/

Appellants No.1.

Amaresh S/o Mallappa Sajjan,
Age: 32 years, Occ: Agri,
R/o Yalagi, Tq: Shorapur, Dist:
Yadgiri.

2. Basavaraj S/o Mallappa Sajjan,
Age: 34 years, Occ: Agri,
R/o Yalagi, Tq: Shorapur, Dist:
Yadgiri.

(By Sri.BKD. Advt.,)

V/s

Respondents No.1

Mallappa S/o Siddappa Sajjan,
Age: 66 years, Occ: Agriculture,
R/o Yalagi, Tq: Shorapur, Dist:
Yadgiri (since died through his Lrs).

1(a). Guttamma W/o Siddappa Sajjan,
Age: 48 years, Occ: Agriculture,



2 Civil.Misc.NO.5005/2025
R/o Asantapur, Tq: Devara
Hipparagi, Dist: Vijayapur,

- 1(b).** Honnamma W/o Gururaj Sajjan,
Age: 36 years, Occ: Agriculture,
R/o Yalagi, Tq: Shorapur, Dist:
Yadgiri.
- 1(c).** Murigemmma W/o Gurulingappa
Sajjan, Age: 28 years, Occ:
Agriculture, R/o Kalikeri, Tq: Talikoti,
Dist: Vijayapur.
- 1(d).** Basavaraj S/o Mallappa Sajjan,
Age: 36 years, Occ: Agriculture,
R/o Yalagi, Tq: Shorapur, Dist:
Yadgiri.
- 1(e).** Amaresh S/o Mallappa Sajjan,
Age: 32 years, Occ: Agriculture,
R/o Yalagi, Tq: Shorapur, Dist:
Yadgiri.
- 2.** Chandrashekhar S/o Basappa Sajjan,
Age: 48 years, Occ: Agriculture,
R/o Hunasigi, Tq: Hunasagi, Dist:
Yadgiri Cell No.9741285568.

(By R1(a) to (e) Ex-parte)
(By R2 Sri.BDA. Advt.,)

**ORDER ON MAIN PETITION**

Being aggrieved by the order passed by this court, dated 11.11.2025, in appeal No.5016/2025 (old A.No.26/2018), dismissed the said appeal for non prosecution, the petitioners who are appellants in the said appeal, are before this court challenging the correctness and legality of the same.

2. Brief facts of prosecution case, are as follows:-

The present petitioners have filed regular appeal before this court in appeal No.5016/2025 (old A.No.26/2018), against the judgment and decree passed in OS No.28/2017 dated 06.04.2018, after admitting the appeal this court has issued notice to respondent, respondents appeared through counsel and received TCR, thereafter posted for steps against Lrs of respondent No.1, on 03.04.2025 the Ld counsel for the appellant filed IA U/o 22 Rule 4 and Rule 9 of CPC and U/Sec.5 of the limitation act for bringing Lrs of respondent No.1, since than the appellants and his counsel remand absent, no step taken till 11.11.2025, hence this court dismissed the said appeal for non prosecution on 11.01.2025,



hence the present petitioners have filed this petition for restorer of the appeal and same may be disposed of on merits.

3. Notice to respondents issued, respondent No.3 appeared through counsel and remaining respondents place Ex-parte, and posted for hearing on main petition.

4. Heard on both side.

5. I have perused the contents of petition, grounds stated in the petition, and material placed before the court, considered the arguments of the ld counsel for the petitioners and respondents, on perusal of the same the points that would arise for determination are as follows;

POINT NO.1: Whether the petitioners have made out sufficient grounds for restoration of appeal No.5016/2025 (old A.No.26/2018) by recalling order passed by this court on 11.11.2025 ?

POINT NO.2: What order ?

6. My findings to the above points are as follows;

Point No.1 : in the Affirmative.



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

REASONS

7. POINT NO.1: On perusal of the grounds stated in the petition, it is seen that, the petitioners have challenged the judgment and decree passed in OS No.28/2017 dated 06.04.2018, in appeal No.5016/2025 (old A.No.26/2018), but, after giving sufficient opportunities for taking necessary steps and to proceed with appeal this court has dismissed the said appeal on 11.11.2025 for non prosecution, the appellants/petitioners have challenge the said order by filing this petition on 06.12.2025, the petition filed is in time, the petitioners have stated the grounds for their absence in the appeal that, the petitioners have filed appeal initially before the Hon'ble Prl. District and Sessions court Yadgiri, after establishment of this court sitting at Shorapur, all proceedings comes under the jurisdiction of this court, pending before the Hon'ble Prl. District and Sessions court Yadgiri, have been transfer to this court, but, the petitioners were not having knowledge regarding transfer of



files from Yadgiri to Shorapur court, they were under the impression that, case is pending before the original court, this court issue court notice through whatsapp, but, petitioners are not aware about the message, hence they remained absent, the absence of petitioners before this court is only lack of knowledge and but deliberate one and dismissal order dated 11.11.2025 is to be restored.

8. I have gone through the grounds stated in the petition and material placed before this court, off-course, the petitioners have filed appeal before the Hon'ble Prl. District and Sessions court Yadgiri, in RA.No.26/2018 on 24.04.2018, after establishment of this court sitting at Shorapur the entire records transferred to this court, even this court has issued court notice to the petitioners through Whatsup before passing dismissal order in the appeal, same was served through whatsapp, but, petitioners not aware about the notice issued by the court through whatsapp. That apart, the present petitioners have filed suit for declaration and injunction and for rectification of ROR of suit properties, so, the rights of the parties over the immovable properties are involved in the



appeal, the grounds stated in the petition are satisfactory, in order to determine the rights of the parties over the suit properties and in order to avoid multiple city of the proceedings, and in the interest of justice and equity, I am of the opinion that, the petition filed by the petitioners for restoration of appeal is to be allowed. Hence, I answer this point in the **Affirmative.**

9. POINT NO: 2: In view of the finding on Point No.1, I proceed to pass the following;

ORDER

The petition filed by the petitioners
U/o 9 Rule 9 of CPC is allowed.

Consequently, order dated
11.11.2025, passed by this court, in
appeal No. 5016/2025 (old
A.No.26/2018), is hereby set-aside, and
appeal restored in the same number, for
disposal on merits.

No order as to cost.

KAYG320010332025



8

Civil.Misc.NO.5005/2025

(Dictated to the Stenographer-III directly on computer, transcript computerized by her, corrected, initialed and then pronounced by me in the open court, on this the 06th day of June - 2026)

(Yamanappa Bammanagi)
(II nd Addl. District and Sessions Judge
Yadgir, Sitting at Shorapur)