



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S.KINAGI

WRIT PETITION NO. 38239 OF 2025 (CS-RES)

BETWEEN:

M/S SURABHI SOUHARDA CREDIT CO-OPERATIVE
SOCIETIES LTD
NO.270, 1ST FLOOR SAIRAM COMPLEX
5TH CROSS , 5TH BLOCK
KATRIGUPPE
BANASHANKARI 3RD STAGE
BENGALURU-560 085
REP BY ITS CEO
POOJASHREE P.V
REGD UNDER KARNATAKA CO-OPERATIVE
SOCIETIES ACT 1959

... PETITIONER

(BY SRI. N SUKUMAR JAIN.,ADVOCATE)



AND:

1. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
(R-441), KSSSF LTD
NO.246, 17 & 18TH CROSS MIDDLE
MARGOSA ROAD
MALLESHWARAM
BENGALURU -560 055
2. SRI. K.S. ASHWATHANARAYANA
S/O LATE SRINIVAS RAO
AGED ABOUT 56 YEARS



OCC BUSINESS
R/AT NO 572, SHIVAM 2ND CROSS
NGEF LAYOUT' NAGARABHAVI
BENGALURU – 560 072

3. SRI. K.S. UMESH BABU
S/O LATE SRINIVAS RAO
AGED ABOUT 53 YEARS
OCC BUSINESS
R/AT NO 914, 3RD MAIN ROAD
VIJAYANAGAR
BENGALURU -560 058

...RESPONDENTS

(BY SRI.A.DEVARAJA .,ADVOCATE FOR C/R-2;
SRI.YOGESH D.NAIK., AGA FOR R-1;
SRI. VENUGOPAL M.S. FOR R3)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED
ORDER DATED 29.10.2025 IN APPEAL NO. 355/202 PASSED BY
THE KARNATAKA APPELLATE TRIBUNAL BENGALURU MARKED
AS ANNEX-H.

THIS PETITION, COMING ON FOR PRELIMINARY
HEARING, IN 'B' GROUP., THIS DAY, ORDER WAS MADE
THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ASHOK S.KINAGI



ORAL ORDER

1. The petitioner filed this petition challenging the order dated 29.10.2025 passed in Co.Op.Appeal No. 355 of 2024 by the Karnataka Appellate Tribunal (for short 'the KAT'), Bengaluru vide Annexure-H.
2. Brief facts, leading rise to the filing of this petition are as follows:
3. Respondent Nos.2 and 3 availed a loan of Rs.1.00 crore from the petitioner on 17.09.2013 by mortgaging house property of respondent No.2. Respondent Nos.2 and 3 committed a default in payment of the loan amount with interest. The petitioner raised a dispute under Section 70 of the Karnataka Co-operative Societies Act before the Registrar. The Registrar has passed the award under Section 39 of the Karnataka Souharda Sahakari Act, and the award came to be passed on 27.02.2017 and directed the respondent Nos.2 and 3 to pay the pay sum of Rs.1,47, 21,617/- with interest and costs etc.



Despite passing an award, respondent Nos.2 and 3 did not repay the award amount. The petitioner filed an execution petition. Thereafter respondent Nos. 2 and 3 aggrieved by the award preferred an appeal before the KAT along with an application for condonation of delay. The KAT allowed the application and condoned the delay of 7 years 7 months 20 days in preferring the appeal. Consequently, appeal was allowed and the award dated 27.02.2017 passed by the authority was set aside and the matter was remitted to respondent No. 1 therein. The petitioner aggrieved by the judgment passed by the Karnataka Appellate Tribunal in Co-op.Appeal No. 355 of 2024 filed this petition.

4. Heard the arguments of the learned counsel for the petitioner, and learned counsel for the respondent Nos.2 and 3 and learned Additional Government Advocate for respondent No.1.



5. Learned counsel for the petitioner submits that the respondent Nos.2 and 3 obtained the loan from the petitioner's society and failed to repay the loan amount. The petitioner raised a dispute before the concerned authority. The concerned authority has passed an award on 27.02.2017. Respondent Nos.2 and 3 did not repay the award amount. The petitioner filed the execution petition. During the pendency of the execution petition, respondent Nos.2 and 3 filed a memo undertaking to repay the award amount. Despite submitting an undertaking before the executing court, respondent Nos.2 and 3 did not repay the award amount. Respondent Nos.2 and 3 approached the KAT by filing an appeal along with an application for condonation of delay of 7 years 7 months and 20 days. The KAT allowed the appeal by condoning the delay of 7 years 7 months and 20 days and remitted the matter to respondent No.1. The KAT was not justified in condoning the delay of



aforesaid period. Hence, on these grounds, prays to allow the writ petition.

6. *Per contra*, learned counsel for respondent Nos.2 and 3 supported the impugned order.
7. Learned Additional Government Advocate for respondent No.1 also supported the impugned order.
8. Perused the records, and considered the submissions of the learned counsel for the parties.
9. It is undisputed that respondent Nos.2 and 3 availed a loan from petitioner and committed a default in its repayment. The petitioner raised a dispute before respondent No.1. Respondent No.1 passed the award under Section 39 of the Souharda Sahakari Act, thereby directing respondent Nos.2 and 3 to repay the amount. The petitioner filed an execution petition. Thereafter, respondent Nos.2 and 3 aggrieved by the award passed by respondent No.1 preferred an appeal before the KAT accompanied by



an application for condonation of delay of 7 years 7 months and 20 days.

10. In support of an application filed an affidavit stating that respondent No.2 has suffered a loss in the business and also due to COVID-19, was admitted in hospital and had incurred a medical expenses of more than Rs.1.00 crore for the treatment of his daughter, and later she died on 04.07.2020, had also lost his father and other close relatives. Thus, the delay has been caused in filing the appeal.
11. The award was passed in the year 2017 and COVID-19 started in the month of March 2020 and from 2017 till March 2020. Respondent Nos.2 and 3 have not explained the delay in filing the appeal before the KAT. The appellate tribunal, without considering the said aspect, proceeded to pass an impugned order.
12. The Hon'ble Apex Court, in the case of ***Chennai Metropolitan Water Supply and Sewerage Board***



and others vs. T.T.Murali Babu reported in **2014(4) SCC 108** held in paragraph 16, which reads as follows:

16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time"



and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence



and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.

(Emphasis supplied)

13. From the perusal of Para 16 of the judgment of the Hon'ble Apex Court wherein it is held that inordinate delay would only invite disaster for the litigant who knocks at the door of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.
14. Admittedly, there is delay of more than 7 years 7 months 20 days, and further, the Hon'ble Apex Court in the case of **Majji Sannemma @ Sanyasirao vs. Reddy Sridevi & Ors., in Civil Appeal No.7696/2021** disposed of on 16.12.2021, referred to the judgment of Hon'ble Apex Court in the case of



Basavaraj and another vs. Special Land Acquisition Officer reported in ***(2013)14 SCC 81*** has observed as follows:

"The expression "sufficient cause" cannot be liberally interpreted if negligence, inaction or lack of bona fides is attributed to the party." It is further observed that, "Even though limitation may harshly affect the rights of a party but it has to be applied with all its rigour when prescribed by statute." It is further observed that,- "In case a party has acted with negligence, lack of bona fides or there is inaction then there cannot be any justified ground for condoning the delay even by imposing conditions." It is observed that, "Each application for condonation of delay has to be decided within the framework laid down by this Court". It is further observed that, "If Courts start condoning delay where no sufficient cause is made out by imposing conditions then that would amount to violation of statutory principles and showing utter disregard to the legislature."

15. Further, the Hon'ble Apex Court has declined to condone the delay of 465 days in preferring the



second appeal in the case of ***Lingeswaran Etc. vs. Thirunagalingam*** in ***Special Leave to Appeal (C) Nos.2054-2055/2022*** disposed of on 25.02.2022, wherein held that when it is found that the delay is not properly explained, the application to condone the delay is required to be dismissed.

16. Admittedly, Respondent Nos.2 and 3 have not shown sufficient cause for condoning a delay of 7 years 7 months 20 days in filing the appeal. The Appellate tribunal without considering the proposition of law laid down by the Hon'ble Apex Court has allowed IA, and condoned the delay. The impugned order passed by the Appellate tribunal is contrary to the proposition laid down by the Hon'ble Apex Court referred supra.
17. In view of the above discretion, I proceed to pass the following order:



ORDER

- i. The writ petition is ***allowed***.
- ii. The Co-op. Appeal No. 355 of 2024 dated 29.10.2025 passed by the Karnataka Appellate Tribunal, Bengaluru, is hereby quashed.
- iii. Accordingly, application for condonation of delay is rejected. Consequently, the appeal filed by respondent Nos.2 and 3 is hereby dismissed.
- iv. Pending application/s, if any, shall stand disposed of.

**Sd/-
(ASHOK S.KINAGI)
JUDGE**

SKS