



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 4TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO.100798 OF 2026 (GM-CPC)

BETWEEN:

THE CHIEF EXECUTIVE OFFICER,
ZILLA PANCHAYATH, BELAGAVI-590001.

...PETITIONER

(BY SRI. SHIVARAJ HIREMATH V., ADVOCATE)

AND:

1. SRI. MAHENDRA S/O. RAOSAHEB DESAI,
AGE. 55 YEARS, OCC. AGRICULTURE,
R/O. NEHARU NAGAR, ALNAWAR,
DHARWAD TALUK, DAHRWAD DISTRICT-581103.
2. THE LAND ACQUISITION OFFICER
AND ASSISTANT COMMISSIONER,
BAILHONGAL, BELAGAVI DISTRICT-591102.

...RESPONDENTS

(BY SRI. T. HANUMAREDDY, ADDL. GOVT. ADVOCATE FOR R2)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO, B. ISSUE A WRIT IN THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED ORDER DATED 21-01-2026 PASSED ON I.A.NO.II, IN E.P.NO.25/2025 ON THE FILE OF SENIOR CIVIL JUDGE, BAILHONGAL, VIDE ANNEXURE-J AND CONSEQUENTLY. C. ALLOW THE APPLICATION BEARING I.A.NO.II, VIDE ANNEXURE-G FILED BY THE PETITIONER/JDR NO.2 UNDER O-21, R-26 R/W SECTION 151 OF CPC IN E.P.NO.25/2025 PENDING ON THE FILE OF SENIOR CIVIL JUDGE, BAILHONGAL, AND D. TO GRANT SUCH OTHER RELIEFS THAT THIS HON'BLE COURT MAY DEEMS FIT IN THE FACTS AND CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE AND EQUITY.



THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the order passed in IA No.2 in EP No.25/2025, dated 21.01.2026 by the Senior Civil Judge, Bailhongal, the judgment debtor is before this Court.

2. The petitioner/judgment debtor had filed IA No.2 under Order XXI Rule 26 read with Section 151 of CPC seeking to stay the execution proceedings till disposal of the Miscellaneous Appeal No.58/2025 pending on the file of the I Additional District and Sessions Judge, Belagavi, which is filed challenging the judgment and award passed in LAC No.51/2009 dated 22.10.2024. The said application came to be dismissed by order impugned, whereby the Court had observed that in the present case, the appeal is filed with a delay of 342 days and the appellate Court has only issued notice on the application for condonation of delay and on the stay application. No interim order staying the execution has been granted. Therefore, the decree holder's right to proceed with execution remains



unaffected. The contention of the judgment debtor that the execution should be stayed to avoid hardship, cannot be accepted in the absence of a statutory provision or an order of stay from the competent appellate Court. The Executing Court cannot sit in an appeal over the decree nor can it grant a stay, when the appeal is already filed and is pending consideration. The Court had considered the judgment of the Kerala High Court in ***Syamala Vs. Thapodhanan*** reported in **2020 SCC Online Ker 8401**. Accordingly, the Court had dismissed the application.

3. Learned counsel appearing for the petitioner/judgment debtor submits that the petitioner has filed the appeal against the judgment and award with a delay of 342 days. The Court had ordered notice and IA seeking stay is pending consideration. It is submitted that under Order XXI Rule 26 of CPC, if a reasonable cause is shown, the Executing Court has got the power to stay the execution. It is submitted that the Executing Court has failed to exercise the jurisdiction vested in it. Unless and until the stay is granted by the Court, it would cause lot of hardship to the petitioner's judgment.

4. Having heard the learned counsel for the petitioner, perused the material on record. When a judgment and award



was passed in LAC No.51/2009 dated 22.10.2024, the judgment debtor, who is a beneficiary in the land acquisition proceedings, immediately ought to have preferred an appeal. For the reasons best known to them, an appeal is filed with the delay of 342 days. The Court had rightly issued notice and IA for stay is pending. The submission of the learned counsel that under Order XXI Rule 26 of CPC, if the reasonable cause is shown, the Court can stay the execution proceedings. This cannot be termed as reasonable cause.

5. When the party as per the framework under the Code of Civil Procedure, 1908, has to prefer an appeal against an order, which is aggrieved and before the appellate Court, there is a provision to seek stay of further proceedings. The petitioner, who could not be successful before the appellate Court, because of delay, now cannot insist the Executing Court to stay the proceedings till the appeal is decided by the appellate Court. The Executing Court had rightly discussed and rightly observed that it cannot grant stay, unless and until an order is passed in the appeal. This Court do not find any reasons to interfere. Accordingly, this Court is passing the following:



ORDER

- i) The writ petition is ***dismissed***.
- ii) All I.As. in this petition shall stand closed.

Sd/-
JUSTICE LALITHA KANNEGANTI

JTR
CT: UMD
List No.: 1 Sl No.: 34