



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 21ST DAY OF AUGUST, 2025

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 106070 OF 2025 (GM-CPC)

BETWEEN:

1. SMT. DEVAKKA W/O. SAMARADDI MULIMANI
AGE: 92 YEARS, OCC. HOUSEHOLD WORK,
R/O. MACHENAHALLI, SHIRAHATTI,
TALUK: SHIRAHATTI, DIST. GADAG.
2. SMT. PADMAVVA W/O. VENKARADDI MULIMANI
AGE: 61 YEARS, OCC. HOUSEHOLD WORK,
R/O. MACHENAHALLI, SHIRAHATTI,
TALUK: SHIRAHATTI, DIST. GADAG.
3. SHAMBHUNATH @ SHAMBULING
S/O. VENKARADDI MULIMANI,
AGE: 31 YEARS, OCC. PRIVATE JOB,
R/O. MALLESHWARAM, BENGALURU.
4. BASAVARAJ @ BASAVARADDI
S/O. VENKARADDI MULIMANI,
AGE: 27 YEARS, OCC. PRIVATE JOB,
R/O. MALLESHWARAM, BENGALURU.
5. VINAYAKA @ VINAYAKARADDI
S/O. VENKARADDI MULIMANI,
AGE: 24 YEARS, OCC. STUDENT,
R/O. MACHENAHALLI, SHIRAHATTI,
TALUK: SHIRAHATTI, DIST. GADAG.
6. SHANTARADDI S/O. SOMARADDI MULIMANI,
AGE: 63 YEARS, OCC. ADVOCATE,
R/O. MACHENAHALLI, SHIRAHATTI,
TALUK: SHIRAHATTI, DIST. GADAG.

Digitally signed
by V N BADIGER
Location: High
Court of
Karnataka,
Dharwad Bench,
Dharwad



7. RAMESHRADDI S/O. SOMARADDI MULIMANI
AGE: 60 YEARS, OCC AGRICULTURE,
R/O. MACHENAHALLI, SHIRAHATTI,
TALUK: SHIRAHATTI, DIST. GADAG.

...PETITIONERS

(BY SRI. S.S. KOLIWAD, ADVOCATE)

AND:

SMT. TAYAVVA MULIMANI
SINCE DECEASED BY HIS LR.,

1. NARAYANARADDI S/O. RAMARADDI HADAGALI,
CLAIMING ADOPTED SON, AGE: 53 YEARS,
OCC. PRIVATE JOB, R/O. VADAVI HOSUR,
TQ. SHIRAHATTI, DIST. GADAG.
2. SMT. SAROJAVVA W/O. HANAMARADDI HULAKOTI,
AGE: 72 YEARS, OCC. AGRICULTURE,
R/O. MACHENAHALLI, SHIRAHATTI,
TALUK: SHIRAHATTI, DIST. GADAG.
3. SMT. ANNAKKA @ ANNAPURNA,
W/O. KRISTARADDI NAGAANNUR,
AGE: 67 YEARS, OCC AGRICULTURE,
R/O. KADAMPUR, TQ. MUNDARAGI, DIST. GADAG.
4. MANJUNATHARADDI S/O. RAGHUNATHRADDI NAGANUR,
AGE: 46 YEARS, OCC AGRICULTURE,
R/O. SAMBHAPUR,
TALUK: AND DIST. SAMBHAPUR.
5. VENKARADDI S/O. RAGHUNATHRADDI NAGANUR,
AGE: 38 YEARS, OCC AGRICULTURE,
R/O. SAMBHAPUR,
TALUK: AND DIST. SAMBHAPUR.
6. GEETA @ SANGEETA W/O. SHRIKANTRADDI MADALLI,
D/O. RAGHUNATHRADDI NAGANUR,
AGE: 33 YEARS, OCC. HOUSEHOLD WORK,
R/O. SAMBHAPUR,
TALUK: AND DIST. SAMBHAPUR.

...RESPONDENTS

(NOTICE TO RESPONDENTS IS DISPENSED WITH)



THIS WP IS FILED UNDER ARTICLE 227 OF CONSTITUTION OF INDIA, PRAYING TO, 1) WRIT OF MANDAMUS DIRECTING TO 1ST APPELLATE COURT TO CONSIDER THE DISPOSE OF THE PENDING IAS NO.1 FOR CONDONATION OF THE DELAY AND IA NO.2 FOR STAY, IN RA NO. 11/2024 PENDING BEFORE SENIOR CIVIL JUDGE AND JMFC, LAXMESHWAR FILED BY THE PRESENT PETITION, WITHIN A TIME BOUND AS IAS ARE ANENXURE-D AND E. B) ISSUE A WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION, DIRECTING THE TRIAL COURT TO CONSIDER THE IAS 1 AND 2 ARE FILED BY THE PETITIONERS IN RA NO. 11/2024 PENDING BEFORE SENIOR CIVIL JUDGE AND JMFC, LAXMESHWAR TAKING ANY ACTION.

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

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. Notice to the respondents is dispensed with, in view of the proposed order to be passed.
2. The petitioners are before this Court seeking for the following reliefs:
 - a) *Writ of mandamus directing to 1st appellate court to consider the dispose of the pending IA's No.1 for condonation of the delay and IA No.2 for stay, in RA No. 11/2024 pending before Senior Civil Judge and*



JMFC, Laxmeshwar filed by the present petition, within a time bound as IA's are Annexure-D and E.

b) Issue a Writ in the Nature of Mandamus or any other appropriate Writ, Order or Direction, directing the trial court to consider the IA's 1 and 2 are filed by the petitioners in RA No. 11/2024 pending before Senior Civil Judge and JMFC, Laxmeshwar taking any action.

c) Such other Writ, Order or direction as deem fit under the circumstances of the case.

3. The petitioners have filed R.A. No. 11/2024 challenging the judgment and decree passed in FDP No. 09/2013, vide an interlocutory application the petitioner had also sought for stay of the judgment and decree. Since R.A. No. 11/2024 was filed after the expiry of the limitation period, an application under Section 5 of the Limitation Act was also filed, on which notice was ordered. The respondents, having been served, have entered appearance and filed objections to I.A. No.2 on 21.08.2024.



4. However, despite objections being filed, the said application under Section 5 of the Limitation Act and interlocutory application are yet to be considered by the First Appellate Court.
5. Whenever such applications are filed before the First Appellate Court, especially when execution or final decree proceedings are pending, it becomes imperative for the Court to consider and pass appropriate orders on the interlocutory applications at the earliest. Failure to do so may result in the decree being executed or final decree proceedings being concluded, prior to the appeal being considered, rendering the appeal infructuous. Since the disposal of the application is a matter between the Court and the petitioner, the presence or hearing of the respondents is not necessary for the limited purpose of this order.



ORDER

- i. The petition is **allowed**.
- ii. Learned Senior Civil Judge and JMFC, Lakshmeshwar, is directed to consider and dispose of the pending interlocutory application in R.A. No. 11/2024, as expeditiously as possible in accordance with law.

**Sd/-
(SURAJ GOVINDARAJ)
JUDGE**