



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE R.NATARAJ

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

REGULAR FIRST APPEAL NO. 200127 OF 2025 (SP)

BETWEEN:

BABAYYA
S/O TIPPAYYA GOUD,
AGE : 40 YEARS,
OCC: AGRICULTURE,
R/O: H.NO.184/2, HODEBIRNALLI VILLAGE,
TQ: CHINCHOLI,
DIST : KALABURAGI – 585 324.

...APPELLANT

(BY SMT. CHANDRAKALA, ADVOCATE)

AND:

SAYINATH
S/O RAMAYYA,
AGE : 59 YEARS,
OCC: AGRICULTURE,
R/O: H.NO.3/17 RATAKAL VILLAGE,
TQ : CHINCHOLI,
DIST : KALABURAGI – 585 322.

...RESPONDENT

(BY SRI GANESH SUBHASHCHANDRA KALBURGI, ADVOCATE)





THIS REGULAR FIRST APPEAL IS FILED UNDER ORDER 41 RULE 1 READ WITH SECTION 96 OF CPC, PRAYING TO SET ASIDE THE JUDGMENT AND DECREE PASSED BY THE SENIOR CIVIL JUDGE AND JMFC AT CHINCHOLI IN O.S.NO.18/2020 DATED 21.08.2021 BY ALLOWING THE APPEAL AND DISMISS THE SUIT OR IN THE ALTERNATIVE AND REMAND THE MATTER TO THE TRIAL COURT WITH A LIBERTY TO FILE WRITTEN STATEMENT AND TO CONTEST THE SUIT ON MERITS, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS REGULAR FIRST APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R.NATARAJ
and
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE R.NATARAJ)

I.A.No.1/2025 is filed for condonation of delay of 1291 days in filing the appeal.

2(i). The respondent filed O.S.No.18/2020 for specific performance of an agreement of sale dated 06.04.2016 which was decreed ex-parte on 21.08.2021. The appellant has belatedly challenged the said decree and



has filed this application for condonation of delay. It is stated in the affidavit accompanying the application that the respondent had assured that whenever the appellant returned the money, he would re-convey the property in favour of the appellant. The appellant claimed that he sold one of the suit properties and paid a sum of Rs.15,00,000/- to the respondent.

(ii). He claimed that the respondent came forward for settlement of the dispute after receipt of the part hand loan amount out of the Court and promised to settle the same at the earliest. The appellant claimed that he was under the bonafide impression that the respondent would not approach the Court of law for enforcement of the agreement of sale and would settle the matter out of Court. He claimed that he was unaware of the institution of the suit by the respondent.

(iii). He further claimed that after the suit was instituted, due to COVID pandemic, his father died on



04.05.2020, his brother-in-law died on 02.04.2021 and another sister's husband died on 21.05.2022 due to COVID-19. As such, he and his family members were under severe depression and were unaware of the suit instituted by the respondent. He claimed that he did not receive suit summons and was under the bonafide belief that the respondent had not initiated steps against him. Later, he came to know about the judgment passed in O.S.No.18/2020 when he received notice in EP No.9/2022 on 17.08.2022.

(iv). He claimed that he was suffering from jaundice and was availing herbal treatment in various villages for one year and after recovery during July, 2024, he rushed to the Court and enquired about the suit in O.S.No.18/2020 and came to know that the judgment was passed against him after placing him ex-parte. He then applied for certified copy on 18.07.2024, received the same on 25.07.2024 and approached his advocate at Chincholi, who after going through the records advised



him to file an appeal before this Court. He therefore contends that the appeal could not be filed in time due to a reason beyond his control and pray that the same is condoned.

3(i). This application is opposed by the respondent. He contends that the claim of the appellant that he was unaware of the judgment and decree until service of notice in EP No.9/2022 on 17.08.2022 is false as the suit summons were duly served on the appellant. It is contented that even if it is accepted that the appellant came to know about the decree in August 2022, he took no steps for nearly two years thereafter.

(ii). It is further contended that the appellant has baldly claimed that he suffered from jaundice and that he availed herbal treatment. The appellant admitted that he applied for certified copy on 18.07.2024, received the same on 25.07.2024, but yet waited for 11 more months



to file the present copy. Therefore, it is contended that the conduct of the appellant is not justified.

(iii). He has further contended that the appellant has executed a sale deed dated 06.02.2024 in favour of Smt. Bhagamma in respect of Sy.No.188/2 which is the suit property and therefore, his conduct is unbecoming. Even assuming the claim of the appellant that his father and brothers-in-law died due to COVID-19, he has not produced any document to establish the same. He therefore, contends that the assertions made in the application for condonation of delay are a make believe theory which is far from truth and therefore, prays that the appeal be dismissed on the ground of delay itself.

4. During the pendency of this appeal, this Court had recorded the fact that the appellant and the respondent had settled the dispute, in terms of which the appellant had agreed to pay a sum of Rs.36,00,000/- and both of them sought time to file a compromise petition.



This was again reiterated on 19.09.2025. The appellant handed over cash of Rs.2,25,000/- on 23.09.2025 and agreed to pay Rs.5,00,000/- on 08.10.2025 and to pay the balance on or before 10.11.2025. The appeal was thereafter listed on 08.10.2025 to enable the appellant to pay a sum of Rs.5,00,000/-. Thereafter a sum of Rs.5,00,000/- was paid by the appellant to the respondent on 13.10.2025. The balance was to be paid by or before 10.11.2025 and the case was therefore listed on 10.11.2025.

5. From 10.11.2025, the appellant has dodged the payment of balance on one or the other ground. This Court had granted several opportunities to the appellant to pay the balance amount. Since the appellant did not comply with his obligation to pay the balance, this Court passed an order dated 03.12.2025 directing the respondent to return a sum of Rs.7,25,000/- to the appellant. The respondent then refunded the amount on 03.12.2025 which is acknowledged by the appellant. Till date, the



appellant has chosen not to honour the commitment made to the respondent before this Court. It is therefore more than evident that the appellant is not bonafide and not honest.

6. On the contrary, he has transferred the property during the pendency of the proceedings and it is now stated at the bar that the appellant has set up his sisters to oppose the execution petition that they have a share in the suit schedule property.

7. In view of the aforesaid, we are of the opinion that the appellant is not entitled to any sympathy at the hands of this Court. The cause shown for the delay is not satisfactory but is fabricated for the purpose of reviving a belated appeal. The appellant has failed to explain the reason for delay in filing the appeal from August 2022 till the year 2025.

8. In that view of the matter, we do not consider it appropriate to condone the delay in filing this appeal.



Accordingly, I.A.1/2025 is dismissed. Consequently,
appeal is also ***dismissed***.

**Sd/-
(R.NATARAJ)
JUDGE**

**Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE**

SHS
List No.: 1 Sl No.: 8