



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

COMMERCIAL APPEAL NO. 41 OF 2026

BETWEEN:

SRI.K.M.CHETHAN N BABU
S/O SRI. MUNIYAPPA,
AGED ABOUT 35 YEARS
R/A SAMPIGE NAGAR,
KAMMASANDRA VILLAGE,
ELECTRONIC CITY POST,
ATTIBELE HOBLI,
ANEKAL TALUK,
BENGALURU - 560 100

...APPELLANT

(BY SRI. K V NARASIMHAN., ADVOCATE)

AND:

1. SRI. GEORGE POTHAN
S/O LATE. P.G POTHAN
AGED ABOUT 58 YEARS,
R/A VELLARAMKUNNU ESTATE,
GOVERNMENT COLLEGE ROAD,
CHUNDALE PO, PIN 673 121,
VYTHIRI TALUK, KALPETTA,
WAYAND DISTRICT, KERALA.

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH
COURT OF
KARNATAKA



2. SRI K M MUNIYAPPA
S/O MUNISWAMAPPA,
AGED ABOUT 55 YEARS,
R/A KAMMASANDRA VILLAGE,
SAMPIGE NAGARA,
ELECTRONIC CITY,
BENGALURU 560 100

...RESPONDENTS
(BY SRI. PRITHVIRAJ SHASTRY L, ADVOCATE FOR R1)

THIS COMAP IS FILED U/S. 13 OF COMMERCIAL COURTS ACT, 2015 PRAYING TO ALLOW THIS APPEAL AND SET ASIDE THE ORDER DATED 05.06.2025, PASSED IN COM EX. No.265 OF 2021 ON THE FILE OF THE X ADDITIONAL DISTRICT AND SESSIONS JUDGE (COMMERCIAL COURT), BENGALURU RURAL DISTRICT, BENGALURU.

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

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. Issue notice.
2. Learned counsel Sri Prathiviraj Shastry accepts notice for respondent No.1.
3. The appellant has filed the present appeal under Section 13 of the Commercial Courts Act, 2015 impugning an order dated



05.06.2025 [**impugned order**] passed by the X Additional District and Sessions Judge (Commercial Court), Bengaluru Rural, in Com.Ex.No.265/2021.

4. The appellant had filed the said application under Order 21 Rules 97, 98, 99 and 100 of the Code of Civil Procedure, 1908 [CPC], for determining his right, title, interest ownership and possession in respect of subject property described as industrially converted land bearing Sy.No.12/4 situated at Sumuka Cole Storage, Kammasandra Village, Attibele Hobli, Anekal taluk, Bengaluru, measuring 0-34 guntas [referred to as Schedule 'B' property]. The appellant claims that the said property was gifted to him by his father (respondent No.2) by a registered gift deed dated 16.04.2014. He claims that there is no impediment in respondent No.2 gifting the said property to him.

5. Undisputed facts are that there were certain disputes between respondent No.1 and respondent No.2. Respondent No.1 raised certain claims, which is the subject matter of arbitral proceedings. Respondent No.1 had also filed an application under Section 9 of the Arbitration and Conciliation Act 1986 [A&C Act], seeking interim measures of protection. The appellant states that



pursuant to the said application an order dated 26.03.2013 was passed by the learned Commercial Court *inter alia* attaching the property in question (schedule 'B' property). The arbitral proceedings culminated in an arbitral award dated 30.09.2013 in favour of respondent No.1. The same is being enforced.

6. The appellant claims that after the award was rendered, respondent No.2 who is the appellant's father executed a gift deed dated 16.04.2014, whereby the subject property was gifted to the appellant. The appellant contends that the attachment order has lapsed after the arbitral award dated 30.09.2013 was rendered, as the interim measure of protection was operative only till the date of the Award.

7. The present appeal has been filed after a delay of 156 days. The appellant has also filed an application seeking condonation of delay. The appellant is aged about 35 years. The only explanation provided by the appellant is that he was "severely indisposed and bed ridden and was unable to move around". Thus, it was not possible for him to contact his advocate to give instructions for filing the appeal. He states that only during last week there was some improvements in his health, which enabled him to move around



and contact his counsel. The affidavit is not supported by any material to establish that the appellant was bed ridden or was otherwise indisposed. There is nothing on record to substantiate that the appellant was not in a position to contact his advocate. The affidavit also does not indicate as to why the appellant was bed ridden. The explanation provided by the appellant for the inordinate delay is not credible.

8. In view of the above, we are not persuaded to accept that there was sufficient cause that prevented the appellant from filing the present appeal within the prescribed time.

9. The time period for filing the appeal is reduced from 90 days to 60 days in view of the amendment introduced by virtue of Commercial Courts Act, 2015. The legislative intent of providing firm timelines of a shorter period of limitation would be frustrated if such unsubstantial explanations are accepted.

10. In ***Government of Maharashtra v. M/s Borse Brothers Engineers & Contractors Pvt. Ltd. : (2021) 6 SCC 460***, the Supreme Court has observed as under:

55. Reading the Arbitration Act and the Commercial Courts Act as a whole, it is clear that when Section 37 of the Arbitration Act is read with either Article 116 or 117 of the Limitation Act or



Section 13(1-A) of the Commercial Courts Act, the object and context provided by the aforesaid statutes, read as a whole, is the speedy disposal of appeals filed under Section 37 of the Arbitration Act. To read Section 5 of the Limitation Act consistently with the aforesaid object, it is necessary to discover as to what the expression “sufficient cause” means in the context of condoning delay in filing appeals under Section 37 of the Arbitration Act.

**** ** ***

58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression “sufficient cause” is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression “sufficient cause” is not itself a loose panacea for the ill of pressing negligent and stale claims....

**** ** ***

63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches.



11. In view of the above, application is rejected. Consequently, the appeal is rejected as well.
12. Pending applications, if any, also stand disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

Vmb
List No.: 2 SI No.: 15