

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

REVIEW PETITION NO. 61 OF 2023

BETWEEN:

MR. RAVI K.
S/O KUPPAREDDI
AGED ABOUT 40 YEARS
R/AT. No.160, 2ND CROSS
NEXT TO BELLEMANE, J.S. DINNE
J.P. NAGAR, 8TH PHASE
BENGALURU-560 076

...PETITIONER

(BY SRI. RAVI K., PARTY-IN-PERSON)

AND:

1 . MR. MAHESH MEDHEKAR
HR MANAGER
MERCEDES BENZ RESEARCH AND
DEVELOPMENT INDIA PRIVATE LIMITED
PHASE I, OPP. SATHYASAI HOSPITAL
9, 10, 1ST MAIN ROAD, KIADB EXPORT
PROMOTION INDUSTRIAL AREA, WHITEFIELD
BENGALURU-560 066
EMAIL ID: Mahesh.medhekar@daimler.com

Digitally
signed by
RAKSHA
Location:
High Court
of
Karnataka

2 . DR. JENS CATTARIUS
CEO AND MD
(EX-PARTY BEFORE THE TRIAL COURT
AND HIGH COURT)
MERCEDES BENZ RESEARCH AND
DEVELOPMENT INDIA PRIVATE LIMITED
PHASE I, OPP. SATHYA SAI HOSPITAL
9, 10, 1ST MAIN ROAD, KIADB EXPORT
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3 . MERCEDES BENZ RESEARCH AND
DEVELOPMENT INDIA PRIVATE LIMITED
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...RESPONDENTS

THIS REVIEW PETITION IS FILED UNDER ORDER 47 RULE 1
R/W SECTION 114 OF CPC, PRAYING TO (1) REVIEW THE ORDER
DATED 26.11.2019, PASSED IN RFA No.386/2017 ON THE FILE
OF THE HON'BLE KARNATAKA HIGH COURT AT BENGALURU AND
FURTHER SET ASIDE THE ORDER. AND ETC.

THIS REVIEW PETITION HAVING BEEN HEARD AND
RESERVED FOR JUDGMENT ON 27.03.2026 AND COMING ON FOR
PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN
J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT**(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)**

This Review Petition is filed seeking to review the judgment dated 26.11.2019 passed in Regular First Appeal No.386 of 2017 (MON).

2. We have heard Shri. Ravi K., Party-in-person/review petitioner.

3. A Coordinate Bench of this Court pronounced the impugned judgment on 26.11.2019. Aggrieved by the same, the review petitioner then approached the Apex Court by way of a Special Leave Petition (Civil) Dairy No.6172/2020 which came to be dismissed by order dated 09.01.2023. Thereafter, the petitioner has filed the current Review Petition on 06.02.2023 challenging the impugned judgment dated 26.11.2019. Further, the petitioner has also filed I.A.No.1/2023 under Section 5 of the Limitation Act, 1963 for condonation of delay in filing the current petition.

4. The review petitioner/party-in-person places reliance on the following decisions:-

- ***Khoday Distilleries Ltd. and Others v. Sri. Mahadeshwara Sahakara Sakkare Karkhane Ltd., Kollegal, by Order dated 01.03.2019 passed in Civil Appeal No.2432 of 2019;***
- ***Ravi K. v. Mahesh Medhekar & Ors., by Order dated 09.01.2023 passed in Special Leave Petition (Civil) Diary No(s).6172/2020; and***
- ***Radha Gajapathi Raju & Ors. v. P. Maduri Gajapathi Raju & Ors, by Order dated 22.11.2021 passed in Civil Appeal Nos.6974-6975/2021.***

5. We have considered the contentions advanced. The petitioner herein aggrieved by the order passed by this Court on 26.11.2019, preferred Special Leave Petition (Civil) Diary No(s).6172/2020 before the Apex Court. The Apex Court dismissed the Special Leave Petition by an Order dated 09.02.2023, which reads as under:-

"We do not find any reason to interfere with the order assailed in this petition. In our opinion there is no stigma attached to the process in accepting resignation of the petitioner.

The special leave petition is dismissed."

6. Before advertng to the question of delay, the question relating to the dismissal of the Special Leave

Petition operating as a merger of the original order must be examined. If merger applies, the original order would cease to exist independently and no review of the same could lie before this Court. The law on the doctrine of merger in the context of dismissal of Special Leave Petitions has been authoritatively laid down by a three-judge bench of the Apex Court in ***Kunhayammed and Ors. v. State of Kerala and Anr*** reported in **(2000) 6 SCC 359**. On the nature of jurisdiction exercised by the Apex Court at the Special Leave Petition stage, the Apex Court in paragraph 27 of the said judgment held as under:-

"27. A petition for leave to appeal to this Court may be dismissed by a non-speaking order or by a speaking order. Whatever be the phraseology employed in the order of dismissal, if it is a non-speaking order, i.e., it does not assign reasons for dismissing the special leave petition, it would neither attract the doctrine of merger so as to stand substituted in place of the order put in issue before it nor would it be a declaration of law by the Supreme Court under Article 141 of the Constitution for there is no law which has been declared. If the order of dismissal be supported by reasons then also the doctrine of merger would not be attracted because the jurisdiction exercised was not an appellate jurisdiction but merely a

discretionary jurisdiction refusing to grant leave to appeal. We have already dealt with this aspect earlier. Still the reasons stated by the Court would attract applicability of Article 141 of the Constitution if there is a law declared by the Supreme Court which obviously would be binding on all the courts and tribunals in India and certainly the parties thereto. The statement contained in the order other than on points of law would be binding on the parties and the court or tribunal, whose order was under challenge on the principle of judicial discipline, this Court being the Apex Court of the country. No court or tribunal or parties would have the liberty of taking or canvassing any view contrary to the one expressed by this Court. The order of Supreme Court would mean that it has declared the law and in that light the case was considered not fit for grant of leave. The declaration of law will be governed by Article 141 but still, the case not being one where leave was granted, the doctrine of merger does not apply. The Court sometimes leaves the question of law open. Or it sometimes briefly lays down the principle, may be, contrary to the one laid down by the High Court and yet would dismiss the special leave petition. The reasons given are intended for purposes of Article 141. This is so done because in the event of merely dismissing the special leave petition, it is likely that an argument could be advanced in the High Court that the Supreme Court has to be understood as not to have differed in law with the High Court."

7. Therefore, where a Special Leave Petition is dismissed by a speaking order assigning reasons, the doctrine of merger is not attracted. This is so because the jurisdiction exercised by the Apex Court at the Special Leave Petition stage is not appellate jurisdiction. It is merely a discretionary jurisdiction to grant or refuse leave to appeal. Since the appellate jurisdiction of the Apex Court is not invoked at this stage, there is no question of the order of the High Court merging into any order of the Apex Court. Further, Article 141 of the Constitution of India becomes applicable when there is a law declared by the Apex Court or when there are statements contained in the order other than on points of law and it would be binding on all the courts and tribunals in India and the parties thereto. These principles were subsequently reaffirmed by a co-equal bench of the Apex Court in ***Khoday Distilleries Ltd. v. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd.***, reported in **(2019) 4 SCC 376**, wherein it was held that the judgment in ***Kunhayammed***'s case (supra) laid down the correct law, that there was no need to refer the matter to a

larger Bench, and that a Review Petition can be filed in the High Court before or after the dismissal of the Special Leave Petition, for the reason that no merger results from such dismissal.

8. Therefore, in the instant case, the doctrine of merger does not apply to the dismissal of the Special Leave Petition. The original judgment impugned in the present Review Petition does not merge with the order of the Apex Court and continues to exist independently. However, it is pertinent to note that the Apex Court has recorded a specific finding that "*In our opinion there is no stigma attached to the process in accepting resignation of the petitioner.*" In view of **Kunhayammed's** case (supra), this finding is binding on this Court under Article 141 of the Constitution of India. Therefore, the scope of the Review Petition is curtailed by virtue of the said finding.

9. Since review petition is maintainable before this Court, it is pertinent to examine whether the petitioner has made out sufficient cause for condonation of delay in filing the current review petition. The petitioner has filed

I.A.No.1/2023 seeking condonation of delay of 1167 days in preferring the present Review Petition.

10. Article 124 of the Schedule to the Limitation Act prescribes a period of 30 days from the date of the decree or order sought to be reviewed, within which a review petition must be filed before the Court that passed such decree or order. Section 5 of the Limitation Act, provides for condonation of delay upon being satisfied that the party seeking condonation had sufficient cause for not approaching the Court within the prescribed period of limitation. The burden of establishing sufficient cause lies upon the applicant.

11. The Apex Court in ***State of West Bengal v. Administrator, Howrah Municipality***, reported in **(1972) 1 SCC 366** held that 'sufficient cause' should receive a liberal approach so as to advance substantial justice but only when no negligence, inaction or want of bona fides is imputable to the party seeking condonation. Further, the Apex Court in the case of ***Pathapati Subba Reddy (Died) by L.Rs. and Ors. v. The Special Deputy Collector***,

reported in **(2024) 12 SCC 336**, held that while a liberal approach is to be adopted while considering an application for condonation of delay, the existence of 'sufficient cause' for not filing the appeal or application within time is a condition precedent for the exercise of the Court's discretionary power to condone the delay. The Court further held that the liberal approach in considering the sufficiency of cause for delay should not be allowed to override the substantial law of limitation. Where a party is found to be negligent, or where want of bona fides is apparent, or where the party has remained inactive without explanation, there cannot be any justified ground to condone the delay.

12. The Apex Court in ***Shivamma (Dead) by Lrs. v. Karnataka Housing Board and Others*** reported in **2025 SCC OnLine SC 1969**, has extensively considered earlier precedents. It has held as follows:-

"104. *The net-effect of the aforesaid would be that, a litigant for seeking condonation of delay, would only be required to demonstrate that "sufficient cause" only for that amount of period which is necessary to be excluded so that it is able to bring its appeal or application, as the case may*

be, within the prescribed period of limitation. For illustration, say, the prescribed period of limitation was 90-days, and the actual date of filing took additional 10-days. Now, in such a scenario, if we read "extension" as "exclusion", then "sufficient cause" only has to be shown for the 10-days so that, once it is excluded, his filing would be deemed as if it was filed on the 90th day.

115. *However, as is manifest from the entire discussion above, for the purpose of condonation of delay in terms of Section 5 of the Limitation Act, the delay has to be explained by establishing the existence of "sufficient cause" for the entirety of the period from when the limitation began till the actual date of filing. In other words, if the period of limitation is 90-days, and the appeal is filed belatedly on the 100th day, then explanation has to be given for the entire 100-days."*

It is further been held that the phrase 'sufficient cause' in Section 5 of the Limitation of Act is an expression of elastic import, incapable of precise definition, yet not without boundaries. The burden to establish sufficient cause lies upon the parties seeking condonation, and the Court must be satisfied that the cause is real, bona fide, and free of negligence. Further, it is held at paragraphs No.141, 142 and 143, which read as follows:-

"141. Test of "sufficient cause" cannot be substituted by an examination of the merits of the case. Condonation of delay is a matter of discretion based on explanation for the delay, not on the prospects of success in the case. If merits are considered, a litigant with a stronger case may be favoured with condonation despite negligence, while a weaker case may be rejected even if sufficient cause is made out. This would lead to an inequitable and inconsistent application of the law, undermining the uniform standard that the doctrine of limitation is designed to maintain.

142. Another practical reason why merits must not be considered at the stage of delay condonation is that it risks prejudicing the mind of the court against one party even before the matter is substantively heard. By glancing into merits prematurely, the court may inadvertently form a view that colours the fairness of the subsequent adjudication. The judicial discipline required at this stage demands that only the cause for delay be scrutinized, and nothing more. This ensures that the ultimate adjudication of rights occurs in a neutral and unprejudiced setting.

143. The law of limitation is meant to apply uniformly across cases, regardless of the intrinsic strength or weakness of the claims involved. To import merits into condonation proceedings would effectively dilute this uniformity."

13. The relevant pleadings in the affidavit filed in support of the application for condonation of delay reads as under:-

"4. I submit that, after RFA judgment date, under advice of legal experts, Petitioner preferred an Appeal to the Hon'ble Supreme Court and later on pandemic hit and it stayed there for a while. Later on the Hon'ble Supreme Court did not accept the same appeal at admission stage itself on 9th January 2023 by single line non speaking order. And thereafter, the Petitioner approached Hon'ble High Court on 06 February 2023 for review preferring this petition in time. Hence there is no reasonable delay in this situation. Therefore for the bonafide reason, this application."

14. Apart from this, clearly no cause, much less sufficient cause has been shown by the petitioner to justify the condonation of delay of more than three years from the date of dismissal of the impugned appeal.

15. As stated earlier, the Special Leave Petition was admittedly dismissed by the Apex Court on 09.02.2023. The present review petition was filed on 06.02.2023. A reading of the affidavit filed in support of the application for condonation of delay would show that no reason whatsoever

has been stated justifying the condonation. We are of opinion that the petitioner has failed to make out sufficient cause within the meaning of Section 5 of the Limitation Act, 1963 for the delay of 1167 days in filing the present Review Petition. The application for condonation of delay is accordingly liable to be dismissed. Therefore, I.A.No.1/2023 is *dismissed*.

16. In view of the dismissal of IA for condonation of delay, the review petition also stands ***dismissed***.

All pending interlocutory applications shall stand *disposed of*.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(DR. K.MANMADHA RAO)
JUDGE**

cp*