



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 839 OF 2020 (INJ)

BETWEEN:

1. GOVERNMENT OF KARNATAKA,
REPRESENTED BY ITS
CHIEF SECRETARY,
VIDHANA SOUDHA,
BENGALURU - 560 001.
2. THE PRESIDENT,
BETTER COMMITTEE FOR
GOVERNMENT COLLEGE FOR
BOYS AND GIRLS,
BESIDE TRAVELERS BANGLOW,
M.C.ROAD,
MANDYA CITY - 571 401.
3. THE PRINCIPAL,
THE GOVERNMENT COLLEGE FOR
BOYS AND GIRLS,
BESIDE TRAVELERS BANGLOW,
M.C.ROAD, MANDYA CITY - 571 401.

...APPELLANTS

(BY SRI.KIRAN KUMAR, HCGP)

AND:

1. M.K.SOMASHEKAR,
S/O LATE S.KALAI AH,

Digitally signed
by
SHARADAVANI
B
Location: High
Court of
Karnataka





AGED ABOUT 70 YEARS,
H.NO.5027, 2ND CROSS ROAD,
MANDYA CITY - 571 401.

...RESPONDENT

(BY SRI. NATARAJA BALLAL A., ADVOCATE)

THIS RSA IS FILED UNDER SECTION 100 OF CPC 1908 AGAINST THE JUDGMENT AND DECREE DATED 17.11.2018 PASSED IN RA.NO.45/2016 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, MANDYA DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 16.01.2015 PASSED IN OS.NO.336/2012 ON THE FILE OF THE ADDITIONAL CIVIL JUDGE AND JMFC, MANDYA.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard learned High Court Government Pleader and Sri Nataraj Ballal, learned counsel on IA No.1/2020.

2. There is a delay of 366 days in filing the appeal. Affidavit is filed along with the IA No.1/2020 by Sri. Mahalingu, who was working as Principal, Government College (Autonomous), Mandya. That Affidavit did not contain necessary particulars to condone the huge delay and therefore, another affidavit is filed on 20.11.2025



furnishing the necessary details by Smt. Shashikala, W/o Lingaraj S Badiger, who worked as Under Secretary, Higher Education Department.

3. In the affidavit, it is contended that the judgment and decree passed in OS No. 336/2015 was challenged before the first appellate Court in RA No. 45/2016, which came to be disposed on 07.11.2018.

4. It is further pleaded that soon after the appeal was disposed of, District Government Pleader wrote a letter to the Principal Secretary, Department of Law, for permission to file the Second Appeal on 22.12.2018. But Law Department after verifying the records, gave permission on 13.06.2019.

5. It is also further pleaded that the file was misplaced in the Office of the Legal Cell itself and after searching the same, in the first week of January 2020, the Regular Second Appeal was requested to be filed and thereafter the file was sent to Office of the Advocate



General and therefore, delay has occurred which is not intentional.

6. Pertinently, when was the file traced and who is the person who lost the file and when was the file had been given to the concerned person in the Legal Cell are not pleaded in the better affidavit as well. It is to be noted that Government is having a full-fledged infrastructure and machinery to deal with such matters and a bald statement made that file was misplaced and traced in January, 2020 would not be sufficient enough to condone the delay. It is noticed that practically in every case where the delay has occurred, the reason that has been assigned is misplacement of the file.

7. What action has been contemplated against the erring official and when exactly the file was traced, is not forthcoming in the affidavit. Further, the file having reached the Law Department and permission having been granted on 13.06.2019, for a period of more than 6



months, the file was not traced and no action has been contemplated against the erring official.

8. Therefore, the reasons assigned even in the better affidavit are not satisfactory to condone the delay.

9. It is high time that the Government must evolve a mechanism where such erring officials are brought to books and suitable actions are to be taken especially when rights in respect of immovable property are involved and appeal needs to be filed in time.

10. Having said thus, on merits also this Court perused the material on record.

11. The respondent- plaintiff claims his title on the basis of a sale deed dated 28.03.1966. It is the contention of the Government that the Notification for acquisition got issued on 30.06.1970. The judgment and decree passed by the trial Court is confirmed by the first appellate Court, is only for bare injunction.



12. The Government is at liberty to take necessary action against the respondent through the process known to law and recover the possession of the property, if Government is the owner of the suit property.

13. With that liberty, this Court does not find any good reasons to condone the huge delay and as such, the following:-

ORDER

- i) IA No.1/2020 is dismissed.
- ii) Consequently, appeal is also ***dismissed***.
- iii) If any such proceedings as indicated above are initiated by the Government, all the defences available to the respondent are also kept open to be urged in the intended suit.

**Sd/-
(V SRISHANANDA)
JUDGE**

BSV
List No.: 1 Sl No.: 52