



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 6425 OF 2026 (GM-CPC)

BETWEEN:

SMT RENUKA G SUNKAD
W/O G.V. SUNKAD,
AGED ABOUT 62 YEARS,
BANK EMPLOYEE (RTD),
R/O D. NO. 1968/45, 1ST MAIN,
2ND CROSS, S.S. LAYOUT 'B' BLOCK,
DAVANAGERE - 577 004.

...PETITIONER

(BY SRI. VIRUPAKSHAIAH P.H., ADVOCATE)

AND:

1. VIJAYKUMAR G SUNKAD
S/O GURUSIDDAPPA SUNKAD,
AGED ABOUT 64 YEARS,
RETIRED LIFE.
2. MALLIKARJUNA V. SUNKAD
S/O VIJAY G. SUNKAD,
AGED ABOUT 39 YEARS,
BUSINESSMAN.
RESPONDENT NO. 1 & 2 ARE
R/O NO. G-1, A-WING
SRI GANESHA APARTMENT
AASALE GAON,
NEAR ZILLA PARISHAD SCHOOL
ULHAS NAGAR- 421 004
DISTRICT THANA, STATE MAHARASHTRA.
3. SMT. NAYANA
W/O BHUSHAN KAMBLE,

Digitally signed
by
DHANALAKSHMI
MURTHY
Location: HIGH
COURT OF
KARNATAKA



AGED ABOUT 32 YEARS,
HOUSEHOLD,
R/O FLAT NO. 1706, SUN FLOWER,
NISARGA GREEN, C-CABIN ROAD,
AMBAR NATH, MAHARASHTRA-421 506.

4. PARAMESH @ HARISH S V
S/O VIJAY G SUNKAD
AGED ABOUT 37 YEARS
EMPLOYEE AT BAJAJ FINANCE
R/O FLAT NO. 6, DS MAX
SAANJH APARTMENTS
NO. 357/7, 1ST MAIN
YALENAHALLI MAIN ROAD
AKSHAYA NAGAR, NEAR DLF NEW TOWN
BENGALURU-560 068.
5. RAJASHEKHAR S. NAGUR
S/O LATE SIDDARAMAPPA NAGUR,
AGED ABOUT 60 YEARS,
GOVERNMENT EMPLOYEE,
R/O B WING, VAKRATUNDA RESIDENCY,
DHOKLI NAKA, KOISHET ROAD,
THANE WEST - 400 607.
6. SMT. SHASHIKALA S. NAGUR
D/O LATE SIDDARAMAPPA,
AGED ABOUT 55 YEARS,
JUDGE, CITY CIVIL COURT AND
ADDITIONAL SESSIONS JUDGE,
GRANT ROAD, MUMBAI.

...RESPONDENTS

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER WRIT OR ORDER OR DIRECTION IN THE SIMILAR NATURE QUASHING THE IMPUGNED ORDER DATED 30.10.2025 ON I.A. NO. I IN R.A. NO. 44 / 2024 VIDE ANNEXURE-J PASSED BY II ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAVANAGERE BY



DISMISSING I.A. NO. I FILED UNDER SECTION 5 OF LIMITATION ACT VIDE ANNEXURE-E AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

1. In this writ petition, the petitioner-defendant No.1 has called in question the order dated 30.10.2025 passed by the II Addl. District & Sessions Judge, Davanagere, on I.A.No.I filed under Section 5 of the Limitation Act, in R.A.No.44/2024, whereby the said application has been allowed.

2. For the sake of convenience, the parties are referred to as per their ranking before the Trial Court in Original Suit.

3. Plaintiff filed a suit in O.S.No.105/2015 for partition and separate possession. On issuance of suit summons, the defendants appeared and filed the written statement. After hearing the parties, the suit came to be dismissed by



the III Addl. Senior Civil Judge & JMFC, Davanagere, vide judgment and decree dated 01.03.2019, wherein it made an observation that suit for partial partition is not maintainable. Aggrieved by the said judgment and decree dated 01.03.2019, husband and children of deceased defendant No.2 filed R.A.No.44/2024 before the Principal District Court and Sessions Judge, Davanagere. There was delay of 1975 days in preferring the said regular appeal and therefore, they filed I.A.No.1 for condonation of delay. By impugned order dated 30.10.2025, the First Appellate Court allowed the application and condoned the delay. Aggrieved by the said order, the petitioner is before this Court.

4. Learned counsel appearing for the petitioner-defendant No.1 submitted that there was delay of 1975 days in filing the regular appeal and no proper reasons have been assigned for condonation of delay and that the First Appellate Court is not justified in allowing the



application filed for condonation of delay. In support of his contention, he has also relied upon the judgment of the Apex Court in the case of **Majji Sannemma alias Sanyasirao Vs. Reddy Sridevi and others** reported in **AIR 2022 SC 332** stating that when the parties have not shown sufficient cause for condonation of delay and despite the same, if the Court has condoned the delay, then such an order condoning the delay is unsustainable.

5. It is not in dispute that the suit filed by the plaintiff is for partition and separate possession. The petitioner-defendant No.1 is also one of the family members. The suit for partition was dismissed only on the ground that partial partition is not maintainable. Aggrieved by the same, the husband and children of the deceased defendant No.2 filed RA No.44/2024 before the First Appellate Court and also filed an I.A.No.1 for condonation of delay of 1975 days in filing the regular appeal. The original suit was dismissed vide judgment and decree



dated 01.03.2019. The regular appeal came to be filed on 20.08.2024. The appellants before the First Appellate Court have stated that during the relevant period, due to the spread of COVID-19 pandemic, the courts remained closed or functioned with restricted physical access from March 2020 till December 2021 and several restrictions were imposed making it impossible for the appellants to travel from Mumbai to Davanagere for the purpose of filing the appeal. The appellant No.1, who was examined as PW-1 before the First Appellate Court, has categorically deposed that his wife i.e., defendant No.2, was suffering from throat cancer and was undergoing continuous medical treatment until her death on 10.02.2023. To that effect, he has also produced Ex.P1, Death Certificate of his wife and Ex.P2, Medical history documents before the First Appellate Court. Considering all these aspects and also relying on the judgment of the Apex Court in the case of **Inder Singh Vs. State of Madhya Pradesh** reported in **2025 Live Law (SC) 339**, the First Appellate Court has



allowed the application and condoned the delay holding that the suit filed for partition was dismissed only on the ground that partial partition is not maintainable and that the appellants before the First Appellate Court have shown sufficient cause for condonation of delay.

6. Viewed from any angle, there is no error or illegality in the impugned order passed by the First Appellate Court warranting any interference by this Court.

7. Accordingly, the writ petition is **dismissed**.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE

DM
List No.: 1 Sl No.: 12