



CNR: KAHC010172132018

NC: 2026:KHC:39767
RSA No. 893 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

REGULAR SECOND APPEAL NO. 893 OF 2018 (DEC)

BETWEEN:

SRI. K. ABDUL MAZID,
AGED 67 YEARS,
S/O LATE ABDUL AZEEZ,
R/O BIDARAHALLI
VILLAGE AND POST,
MUDIGERE TALUK,
CHIKKAMAGALURU DISTRICT - 577 132.

...APPELLANT

(BY SRI. R. CHANDRANNA., ADVOCATE)

AND:

SMT. ZAMILABI,
SINCE DECEASED BY HER LRS,

1. MOHAMMED ILIYAS,
2. MUBEENA AHAMED,
3. MATHEEN AHMED,
4. BURHAN,
SINCE DECEASED
REPRESENTED BY LR'S

Digitally
signed by
MALATESH
K C
Location:
HIGH
COURT OF
KARNATAKA



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4(a) SMT.ASHRAFF UNNISA C.P.,
MAJOR,
W/O LATE MOHAMED BURHAN,

4(b) SMT.THAMANNA,
28 YEARS,
D/O LATE MOHAMED BURHAN,

4(c) SRI.ARMAN,
24 YEARS,
S/O LATE MOHAMED BURHAN,

4(d) SRI.ZAMAN,
20 YEARS,
S/O LATE MOHAMED BURHAN,

ALL ARE RESIDING AT
C/O LIYAQAT ALI,
COFFEE PLANTER,
RESIDING AT BIDARAHALLI
VILLAGE & POST,
MUDIGERE TALUK,
CHIKKAMAGALURU DISTRICT - 577 132.

5. FASI AHMED,

6. SAGEER AHMED,
SINCE DECEASED
REPRESENTED BY HIS LRS

6(a) SMT.SHALA PARVEEN,
AGED ABOUT 60 YEARS,
W/O LATE SAGEER AHMED,



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- 6(b) SRI.VILLDAN,
22 YEARS,
S/O LATE SAGEER AHMED,

BOTH ARE RESIDING AT
NEAR MALNAD ENGLISH SCHOOL,
HIRIGARJE VILLAGE,
ARCHALLI POST, BELUR TALUK,
HASSAN DISTRICT - 573 101.

7. LIYAKATH ALI,

8. AHMED ALI,

NO.1 TO 8 ARE SONS OF
LATE M.MOHAMMED HUSSAIN,
ALL MAJOR,
C/O LIYAKATH ALI,
BIDARAHALLI VILLAGE AND POST,
MUDIGERE TALUK,
CHIKKAMAGALURU DISTRICT - 577 132.

9. SMT. SAFIA BANU,
MAJOR,
W/O ABDUL RUB,
BIDARAHALLI VILLAGE AND POST,
MUDIGERE TALUK,
CHIKKAMAGALURU DISTRICT - 577 132.

10. SMT. AMINA @ AMINA BI,
MAJOR,
D/O MOHAMMED HUSSAIN,
BHAGYA HAND POST,
BELAGODU,



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SAKLESH PURA TALUK,
HASSAN DISTRICT - 573 214.

...RESPONDENTS

(BY SRI. A. MADHUSUDHANA RAO., ADVOCATE FOR R1 TO 3,
5, 7, 8, 9 AND R6(a & b);
R10 - ABATED;
R4(a TO d) - SERVED)

THIS RSA IS FILED U/S. 100 OF CPC., AGAINST THE JUDGMENT DECREE DATED 18.07.2017 PASSED IN R.A.NO. 25/2015 ON THE FILE OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, CHIKKAMAGALURU, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT AND DECREE DATED 21.02.2015 PASSED IN OS.NO.7/2008 ON THE FILE OF THE I ADDITIONAL SENIOR CIVIL JUDGE AND JMFC CHIKKAMAGALURU, ITINERATE AT MUDIGERE.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL JUDGMENT

Learned counsel for the appellant was given the opportunity of filing a better affidavit explaining the discrepancies in the medical certificate annexed along with the affidavit.

2. Sri R. Chandranna, learned counsel for the appellant would submit that the reasons assigned in the affidavit are the true reasons and there cannot be any



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better reasons other than what has been stated in the affidavit.

3. There is a delay of 168 days in filing the appeal. In the affidavit, the appellant has stated that after the judgment of the First Appellate Court, he requested his advocate at Chikkamagalur to obtain the certified copy and inform about the same for taking further steps in the matter. It is also contented that he did not receive any communication from his advocate at Chikkamagalur till the last week of November 2017. It is his further case that in the meantime he fell seriously ill and went to Belur where his daughter Srimathi Sadia Tabasum is working as lecturer in Govt. PU College for girls and he took treatment with Dr. C. H.R.Narayana Swamy, who runs Shivan Poly Clinic in Temple Road, Belur, Hassan District for the illness of Hepatitis B for a period from 20.11.2017 to 16.04.2018. It is his case that he got completely cured on 16.04.2018 and after recovery from the illness, he went to Chikkamagalur and enquired his advocate and collected



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the certified copy of the judgment of the First Appellate Court and therefore delay has occurred.

4. To substantiate the said contention, a medical certificate signed by Dr. H. R. Narayana Swamy is annexed. As could be seen from the medical certificate, the doctor is a nutrition consultant, physician and eye surgeon.

5. He is not a specialist for Hepatitis B. Moreover there is a correction in the medical certificate wherein the date of treatment is inserted subsequently without proper explanation. Who made the correction as to 15.04.2018 is a question that remains unanswered on behalf of the appellant. Moreover as could be seen from the certificate itself, the appellant is not treated as inpatient in the Shivan Poly Clinic but he has been treated on OPD basis.

6. It is not his case that he was advised bed rest so as not to visit Chikkamagalur and collect the copy. The distance between Belur and Chikkamagalur is maximum



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one hour by public transport. It is highly unbelievable that the appellant could not contact his advocate after November 2017 till upto the filing of the appeal to collect the certified copy of the judgment and prepare the appeal.

7. Hence reasons assigned in the affidavit are not satisfactory and would not fit in the framework of 'sufficient cause' as is contemplated under Section 5 of the Limitation Act.

8. Accordingly, I.A No. 1 of 18 is hereby rejected. Consequently, appeal is also ***dismissed***.

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

SNB
List No.: 1 Sl No.: 44