



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

REGULAR SECOND APPEAL NO. 980 OF 2023 (PAR/POS)

BETWEEN:

MS. RATHNAMMA,
D/O LATE CHANNABASAVAIAH,
AGED ABOUT 57 YEARS
R/O SHYANADRAHALLI VILLAGE,
TERAKANAMBI HOBLI,
GUNDLUPER TALUK,
CHAMARAJANAGAR DISTRICT - 571123.

...APPELLANT

(BY SRI. VINAY D HOSMATH., ADVOCATE)

AND:

1. SMT. CHIKKATHAYAMMA,
W/O. NAGAPPA,
D/O/ LATE CHANNABASAVAIAH,
AGE NOT KNOWN TO APPELLANT,
R.O UDIGALA VILLAGE,
HARAVE HOBLI,
GUNDLUPET TALUK- 571123.
2. MAHADEVASWAMY,
S/O. LATE SHIVAMMA,
AGED MAJOR,
R/O SHYANADRAHALLI VILLAGE,

Digitally signed
by
SHARADAVANI
B
Location: High
Court of
Karnataka



TERAKANAMBI HOBLI,
GUNDLUPET TALUK,
CHAMARAJANAGAR DISTRICT- 571123.

3. SHIVAMALLAPPA,
S/O. PUTTAMALLAPPA,
AGED ABOUT 56 YEARS,
R/O. SHYANADRAHALLI VILLAGE,
TERAKANAMBI HOBLI,
GUNDLUPET TALUK,
CHAMARAJANAGARA DISTRICT-571123.

...RESPONDENTS

(BY SRI. P MAHESHA.,ADVOCATE FOR R1 AND R2;
SERVICE OF NOTICE TO R3 HELD SUFFICIENT
VIDE ORDER DATED 29.01.2026)

THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 19.04.2017 PASSED IN
RA NO.87/2017 ON THE FILE OF SENIOR CIVIL JUDGE AND
JMFC, GUNDLUPET, ALLOWING THE APPEAL AND SETTING
ASIDE THE JUDGMENT AND DECREE DATED 13.08.2014
PASSED IN OS NO.159/2008 ON THE FILE OF CIVIL JUDGE
AND JMFC, GUNDLUPET.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI



ORAL JUDGMENT

Learned counsel for appellant submits that I.A.no.1/2024 is filed for condonation of 1423 days' delay in filing appeal.

2. It was submitted that respondent no. 1 had filed suit for partition and separate possession in Item nos. 2 and 3 in suit schedule belonging to appellant. Trial Court had decreed suit including Item nos.2 and 3 on 13.08.2014. In appeal filed, First Appellate Court confirmed judgment on 19.04.2017. Thereafter respondent no. 1 had filed F.D.P.no.11/2022, on receipt of notice in same, and claiming that his counsel before Trial Court was unsuccessful in informing appellant about result, had caused delay and prayed for condoning same.

3. Learned counsel for respondents, on other hand, would submit that against judgment and decree passed by Trial Court, there were two separate appeals filed, they were clubbed together and against judgment in connected appeal, respondent no.3 herein, Shivamallappa has filed separate appeal in R.S.A.no.1236 of 2017. It was submitted that present appellant was served with notice in that appeal in year 2017 itself. Since said appeal was against common judgment and



decree passed by first appellate Court, appellant cannot claim to be ignorant. Thus, explanation was false and not supported by affidavit of counsel and sought rejection.

4. Heard learned counsel on both sides and perused I.A.no.1 along with affidavit filed in support thereof. There is no dispute about present appeal being belated by more than more than four years. Admittedly, first appellate Court clubbed two appeals and passed common judgment and insofar as judgment in other first appeal, respondent no.3 herein had filed separate second appeal which was admitted and appellant herein was served and had entered appearance in year 2017 itself, is not denied or disputed. This would indicate that despite having sufficient knowledge of impugned judgment, appeal is filed, belatedly. Mere assertion that counsel for appellant was unsuccessful in informing appellant would be not only insufficient, but would be contrary to record. Therefore, I.A.no. 1 of 2024 is rejected. Consequently, Appeal and other applications stand rejected.

**Sd/-
(RAVI V HOSMANI)
JUDGE**