

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6th DAY OF MARCH 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

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

REVIEW PETITION NO.718 OF 2022

BETWEEN:

SRI C.M. VENKATESH
S/O LATE MUNISWAMY
AGED ABOUT 48 YEARS
R/AT BOVI COLONY
M G ROAD, CHINTAMANI TALUK
CHIKKABLLAPURA DISTRICT-563 125

... PETITIONER

(BY SRI. V K NARAYANASWAMY, ADVOCATE)

AND

1. THE DEPUTY COMMISSIONER
CHIKKABALLAPURA DISTRICT
CHIKKABALLAPURA-562 101.
2. THE ASSISTANT COMMISSIONER
CHIKKABALLAPURA SUB DIVISION
CHIKKABALLAPURA-562 101.
3. SRI ASHWATHA REDDY
S/O LATE HANUMANTHARAYAPPA
AGED ABOUT 56 YEARS
R/AT BOORAGAMAKALAHALLI
CHINTAMANI TALUK-563125.

... RESPONDENTS

(BY SMT. RADHA RAMASWAMY, AGA FOR R1 & R2:
SRI. RAHUL M, ADVOCATE FOR R3)

THIS REVIEW PETITION IS FILED UNDER ORDER 47 RULE 1 OF THE CODE OF CIVIL PROCEDURE PRAYING TO ALLOW THE ABOVE MENTIONED REVIEW PETITION AND TO REVIEW ITS JUDGMENT DATED 19TH DAY OF JUNE, 2019 IN WRIT APPEAL NO.340/2019 (S.C.S.T) AND ETC.

THIS REVIEW PETITION, HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 24.02.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
AND
HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

CAV ORDER

(PER: HON'BLE MR.JUSTICE H.T.NARENDRA PRASAD)

This review petition is filed under Order 47 Rule 1 read with Section 114 of the Civil Procedure Code, seeking review of the order dated 19.06.2019 passed in W.A.No.340/2019. Along with the review petition, I.A.No.1/2022 has been filed for condonation of a delay of 1168 days.

2. Heard the learned counsel for the parties.

3. The reason assigned for the delay in filing the review petition is that, in a similar matter in R.P.No.393/2022, this Court, by order dated 28.06.2022, allowed the review petition by setting aside the order and judgment dated 22.07.2021 and 17.01.2022, passed in W.P.No.48351/2017 and W.A.No.850/2021, respectively. Thereafter, the petitioner filed the present review petition. The relevant paragraph of the affidavit filed along with the application is extracted below:

"5. I most respectfully submit that, after legal consultation and advise, petitioner is advised to file the present review petition seeking review of the judgment and order passed in the writ petition and writ appeal, now under review. And as such there is no delay on his part. Since the judgment and order allowing the R.P.No.393/2022 came to be passed on the 28th day of June, 2022, i.e., subsequent to the disposal of his writ petition and writ appeal, which was not in the

knowledge of the petitioner. So, from the date of judgment dated 28.06.2022 in R.P.No.393/2022, immediately the petitioner herein has taken sincere steps to file the present review petition. I further respectfully submit that, the delay in filing the review petition is neither intentional nor deliberate, but due to the latest proposition of law laid down by this Hon'ble court and as the delay in filing petition if any in filing may kindly be condoned. If the delay in filing review petition is not condoned, I would be put to irreparable loss and legal injury which cannot be compensated."

4. The only ground taken for condonation of delay is that the review petition filed by one Shivaraju and others in R.P. No. 393/2022 was subsequently allowed on 28.06.2022. Thereafter, the present review petition was filed on 29.09.2022. A further ground is also urged that there has been an amendment to the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978.

5. It is well-settled law that a subsequent change in law is not a ground for seeking review. In this context, the Apex Court, in the case of **DELHI DEVELOPMENT AUTHORITY V. TEJPAL AND OTHERS**, reported in **(2024) 7 SCC 433** has held as below:

"37. Another ground taken by the appellants for seeking condonation of delay is the subsequent change of law brought in by Shailendra [Indore Development Authority v. Shailendra, (2018) 3 SCC 412, paras 216-217 : (2018) 2 SCC (Civ) 426] and Manoharlal [Indore Development Authority (LAPSE-5 J.) v. Manoharlal, (2020) 8 SCC 129, para 366 : (2020) 4 SCC (Civ) 496] . However, we are unable to agree with this contention because of four primary reasons.

38. Firstly, this ground seeks to use events temporally subsequent to the expiry of the limitation period to justify the delay. To revisit Section 5 of the Limitation Act, the text of the statute provides that an appeal or application may be admitted after the prescribed period if

the "appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period". Hence, the appellants are required to explain that they were diligent during the prescribed period of limitation and could not file the appeal because of a "sufficient cause" arising within the prescribed period.

39. This understanding is squarely covered by Ajit Singh Thakur Singh v. State of Gujarat [Ajit Singh Thakur Singh v. State of Gujarat, (1981) 1 SCC 495, para 6 : 1981 SCC (Cri) 184] , which had an analogous factual situation. The appellants in the cited case were accused of killing one Manilal and injuring Bhulabhai and others and were acquitted by the trial court. Against this, Bhulabhai filed a revision petition before the High Court, which passed certain observations stating that it is a fit case for the State to file an appeal. Consequently, the State filed an appeal and sought condonation of delay. While the High Court allowed it, this Court held that the condonation of delay was improper. The Court held : (SCC p. 497, para 6)

"6. At the outset, it is urged by the learned counsel for the appellants that the High Court erred in condoning the delay in filing the appeal, and the appeal should have been dismissed as barred by limitation. We have examined the facts carefully. It appears that initially the State Government took a decision not to file an appeal and it allowed the period of limitation to lapse. Subsequently, on certain observations made by the High Court while considering a revision petition by Bhulabhai that it was a fit case where the State Government should file an appeal and on notice being issued by the High Court to the State Government in the matter, the appeal was filed. It was filed three months after limitation had expired. A faint attempt was made to show that when the initial decision was taken not to file an appeal all the papers had not been considered by the department concerned, but we are not impressed by that allegation. The truth appears to be that the appeal was not filed at first because the State Government saw no case on the merits for an appeal, and it was filed only because the High Court had observed — and that was long after limitation had expired — that the case was fit for appeal by the State Government. Now, it is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows limitation to expire and pleads sufficient cause for not filing the appeal earlier, the sufficient cause must establish that because of some event or circumstance arising before limitation expired it was not possible to file the appeal within time. No event or circumstance arising after the expiry of limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of

limitation which may further delay the filing of the appeal. But that the limitation has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. In the present case, there was no such cause, and the High Court erred in condoning the delay.”

40. Similarly, in most of these cases, the prescribed period of limitation had already expired long before the judgments in *Shailendra [Indore Development Authority v. Shailendra, (2018) 3 SCC 412, paras 216-217 : (2018) 2 SCC (Civ) 426]* and *Manoharlal [Indore Development Authority (LAPSE-5 J.) v. Manoharlal, (2020) 8 SCC 129, para 366 : (2020) 4 SCC (Civ) 496]* were delivered. The appellants let the limitation period lapse, perhaps because they saw no case on merits for appeal. When the law was subsequently re-interpreted in the aforecited two cases, the appellants approached this Court with the present appeals, petitions, and applications. Instead of showing a sufficient cause arising within the period of limitation, they are using an event after the expiry of such period to justify the delay. This does not square with our understanding of the law, and cannot be allowed.

41. This leads us to the second reason for disagreeing with the ground, which is that a party cannot be allowed to take advantage of its deliberate inaction during the limitation period. Allowing to the contrary would distort incentives for parties and create dystopian consequences for our judicial process. To put this in right perspective, two scenarios can be juxtaposed : one, where the appellants had been vigilant and had preferred an appeal within the limitation period, but would have failed to succeed as the governing law during that time was as stated by *Pune Municipal Corpn. [Pune Municipal Corpn. v. Harakchand Misirimal Solanki, (2014) 3 SCC 183, para 17 : (2014) 2 SCC (Civ) 274]* and *Sree Balaji Nagar Residential Assn. [Sree Balaji Nagar Residential Assn. v. State of T.N., (2015) 3 SCC 353, para 11 : (2015) 2 SCC (Civ) 298]* ; and second, where the appellants deliberately allowed the limitation period to expire and have now approached this Court using the subsequent change of law as a ground for allowing the appeals. Now, if the appellants are allowed to file the appeals in the second scenario, it will lead to an anomalous situation where the

appellants that were vigilant were not able to get the remedy but the ones that were sleeping over their rights would obtain relief. This would run counter to the purpose of the Limitation Act, which, instead of giving finality to the proceedings, would be permitting the parties to use the delay to their advantage.

42. Thirdly, if subsequent change of law is allowed as a valid ground for condonation of delay, it would open a Pandora's box where all the cases that were subsequently overruled, or the cases that had relied on the judgments that were subsequently overruled, would approach this Court and would seek a relief based on the new interpretation of law. There would be no finality to the proceedings and every time this Court would reach a different conclusion from its previous case, all such cases and the cases relying on it would be reopened.

43. We find adequate support to our aforestated reason in Tilokchand Motichand v. H.B. Munshi [Tilokchand Motichand v. H.B. Munshi, (1969) 1 SCC 110, para 12] , in which a five-Judge Bench of this Court had the

occasion to consider the question of condonation of delay on the basis of subsequent change of law. While giving the majority opinion, Hidayatullah, C.J. held : (SCC p. 116, para 12)

"12. ... Everybody is presumed to know the law. It was his duty to have brought the matter before this Court for consideration. In any event, having set the machinery of law in motion he cannot abandon it to resume it after a number of years, because another person more adventurous than he in his turn got the statute declared unconstitutional, and got a favourable decision. If I were to hold otherwise, then the decision of the High Court in any case once adjudicated upon and acquiesced in, may be questioned in a fresh litigation revived only with the argument that the correct position was not known to the petitioner at the time when he abandoned his own litigation."

6. In view of the aforesaid decision, and in the absence of any sufficient cause shown to condone the inordinate delay of 1168 days in filing the review petition, this Court is of the considered opinion that the petitioner has failed to make out any grounds for condonation of delay.

Accordingly, I.A. No.1/2022 filed for condonation of delay stands rejected.

Consequently, the review petition also stands dismissed.

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

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

cm/-