



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. 1570 OF 2023 (PAR)

BETWEEN:

MOHAMMED KHAN
S/O JAMALAKHAN
AGED ABOUT 72 YEARS,
R/AT DIGVANETTAKUNTAPALLI VILLAGE,
CHELUR HOBLI,
BAGEPALLI TALUK - 563 124

...APPELLANT

(BY SRI PRITHVIRAJ SHASTRY G., ADVOCATE FOR
SRI G.BALAKRISHNA SHASTRY, ADVOCATE)

AND:

1. SMT. BUDDAMMA
W/O LATE ANJINAPPA,
D/O LATE KONAPPA,
AGED ABOUT 62 YEARS,
2. SMT. VENKATARAVANAMMA
W/O LATE NARENAPPA
D/O LATE KONAPPA ,
AGED ABOUT 59 YEARS,

BOTH ARE RESIDING AT
YEGAVANETTAKUNTAPALLI VILLAGE,
CHELUR HOBLI,
BAGEPALLI TALUK - 563 124.

3. SMT. VENKATARAVANAMMA
W/O LATE CHINNA VENKATARAMANAPPA
AGED ABOUT 52 YEARS,
4. SMT. GEETHA
D/O LATE CHINNA VENKATARAMANAPPA

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by ANUSHA V
Location: High
Court of
Karnataka



AGED ABOUT 31 YEARS,

5. SRI. VENKATESH
S/O LATE CHINNA VENKATARAMANAPPA
AGED ABOUT 27 YARS,
6. SMT. BHAGYAMMA
D/O LATE CHINNA VENKATARAMANAPPA
AGED ABOUT 25 YEARS,

THE RESPONDENTS NO.3 TO 6 ARE
R/AT MASANAPALLI VILLAGE,
CHELUR HOBLI,
BAGEPALLI TALUK 563 124.

7. SRI. VENKATARAVANAPPA
S/O LATE PEDDA VENKATARAMANAPPA
AGED ABOUT 42 YEARS,
8. SRI. RAVI
S/O LATE PEDDA VENKATRAMANAPPA
AGED ABOUT 37 YEARS,
9. SRI. EARAPPA
S/O LATE PEDDA VENKATARAMAPPA,
AGED ABOUT 34 YEARS,

THE RESPONDENTS NO.7 TO 9 ARE
R/AT MASANAPALLI VILLAGE,
CHELUR HOBLI,
BAGEPALLI TALUK 563 124.

10. SMT. NANJAMMA
W/O DHOVI ANJINAPPA
MAJOR,
R/AT MOTAKAPALLI VILLAGE,
GULUR HOBLI,
BAGEPALLI TALUK 561 207.
11. SMT. CHINNA VENKATAMMA
W/O DHODI NANJAPPA,
AGED ABOUT 52 YEARS,
R/AT YEGAVANEKETTAKUNTAPALLI VILLAGE,
CHELUR HOBLI,
BAGEPALLI TALUK 563 124

...RESPONDENTS



THIS RSA IS FILED UNDER SEC.100 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 21.03.2023. PASSED IN RA NO.167/2018 ON THE FILE OF THE SENIOR CIVIL JUDGE, BAGEPALLI, DISMISSING THE APPEAL AND FILED AGAINST THE ORDER DATED 03.03.2015 PASSED IN OS NO.188/2011 ON THE FILE OF THE CIVIL JUDGE AND JMFC, BAGEPALLI.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Heard.

2. I.A.no.1/2023 is filed seeking condonation of delay of 459 days in filing this appeal.

3. Sri Prithviraj Shastry G., learned counsel appearing for Sri G. Balakrishna Shastry, learned counsel for appellant submitted that respondents no.1 and 2 had filed OS.no.188/2011 for partition and separate possession of several suit properties including three properties belonging to appellant, but without arraying him as party. Said suit came to be decreed by trial Court. He filed appeal as non-party aggrieved person. Since he was not party to suit, he was



unaware about judgment and decree and therefore, there was some delay in filing appeal.

4. It was submitted, appellant had filed application seeking condonation of delay. He had also led evidence before Appellate Court. However, on finding that there was no proper explanation for delay, without examining appeal on merits, application was rejected and consequently, appeal was dismissed.

5. It was submitted, appellant's son was suffering from Schizophrenia since 2015 and because of said illness, appellant was unable to file appeal in time. It was submitted, treatment records as well as prescriptions and receipts of purchase of medicines would indicate appellant's son was under treatment even till date of filing this appeal. It was submitted, thus, appellant was prevented from filing this appeal in time, which was beyond his control and same was sufficient reason for allowing this application. It was submitted, since property rights were involved, this application may be considered liberally.



6. Heard learned counsel, perused application and affidavit filed thereof.

7. From above, it is seen that there is delay of 459 days in filing this appeal and same is sought to be explained by referring to illness of appellant's son, who was stated to be suffering from Schizophrenia.

8. Treatment records, prescriptions and medicines purchase receipts are appended to affidavit filed in support of this application.

9. Perusal of same would indicate that appellant's son was under treatment for Schizophrenia since 2015. Treatment records would not indicate that ailment was of such nature that prevented appellant from managing time to verify status of present litigation and pursue his interest/remedy.

10. In either case, it is seen that even first appeal filed was beyond three years. While passing impugned order, Appellate Court has specifically observed Exs.R1 to R3, which would indicate that appellant had knowledge of suit, as he was served with summons and appeared through counsel. Though



same is disputed by learned counsel for appellant, specific finding that appellant was aware of suit would remain.

11. It is also seen that first appeal was filed in 2018 and disposed of in 2022. Therefore, four years prior to filing of this appeal, appellant was able to duly prosecute appeal without regard to illness, as records would indicate that as appellant's son was continuously receiving treatment during said period. Despite same, present appeal is filed after delay of 459 days. There is also no specific assertion that there was no other person in appellant's family to assist him. This would indicate that there is no proper explanation for delay and reasons cited do not appear to be sufficient cause, especially when appellant had been pursuing first appeal.

12. In view of above, I.A.no.1/2023 is *rejected*. Consequently, appeal is ***dismissed***.

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