



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO. 6501 OF 2024 (GW)

BETWEEN:

SRI.SURESHA,
S/O MADEGOWDA,
AGED ABOUT 43 YEARS,
R/AT: AREPURA VILLAGE,
BEGUR HOBLI, GUNDLUPET TALUK,
CHAMARAJANAGAR DISTRICT-571 109.

...APPELLANT

(BY SRI.GOVIND BHARATH.M.V, ADVOCATE)

AND:

1. BEEREGOWDA,
S/O LATE. BASAVEGOWDA,
AGED ABOUT 64 YEARS,
2. SAVITHRAMMA,
W/O BEEREGOWDA,
AGED ABOUT 54 YEARS

BOTH ARE R/AT:
NO.138, LOKANAYAKA NAGARA,
K.R.S.ROAD, MYSURU – 570 016.

...RESPONDENTS

(BY SRI.H.M.MANJESH, ADVOCATE FOR R1 AND R2)

Digitally signed
by K G
RENUKAMBA

Location: HIGH
COURT OF
KARNATAKA



THIS MFA IS FILED UNDER SECTION 47(c) OF THE GUARDIANS AND WARDS ACT, AGAINST THE ORDER DATED 21.01.2022 PASSED IN G AND WC.NO.4/2019 ON THE FILE OF THE IV ADDITIONAL PRL. FAMILY JUDGE, MYSURU, DISMISSING THE PETITION FILED UNDER SECTION 25 OF THE GUARDIAN AND WARDS ACT, 1890.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
AND
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE JAYANT BANERJI)

The application IA No.1/2024 has been filed seeking to condone the delay of 897 days.

2. It has been stated in the affidavit filed by the proposed appellant that he has fought several legal battles even prior to the institution of the petition which is now under challenge and after having suffered from other orders, the order under challenge was passed. He had filed revision petition before this High Court in RPFC No. 7/2019, which was pending from the year 2019 and was finally disposed of on 13.02.2024 and a writ petition



bearing No.50023/2019 which was also pending from the year 2019 was finally disposed of on 12.06.2024.

3. It is stated that in the meanwhile his father also fell ill as he was suffering from hypertension and heart illness and the applicant had to look after him as well. His father's illness pushed him into financial crisis and after recovering from the same, he was able to contact his advocate in Bengaluru, in the third week of June 2024. After discussing the case with his advocate in Bengaluru, he had to go back to Mysuru to contact his advocate there for obtaining some documents. Certified copies of the documents were made available in the second week of July 2024, from the advocate in Mysuru. For certain other ailment, the applicant was undergoing treatment and therefore, he was not able to travel immediately to Bengaluru. The documents could be handed over to his advocate in Bengaluru, in the third week of September 2024, which caused delay in filing the appeal.



4. A memo with documents has been filed by the counsel for the applicant on 25.06.2025, enclosing therewith, the medical record pertaining to his father.

5. We have perused the medical record as perused. The records are from 15.05.2019 till 04.09.2024. Most of the documents pertain to routine examination like blood tests for diabetes and other ailments.

6. In the year 2022, detailed investigations were done. In the year 2024, he was diagnosed with the Left Main + Triple Vessel Coronary Artery disease and he underwent Angioplasty and Stent Implantation. Thereafter, he was discharged on 08.08.2024. On 18.08.2024, some investigations were done. Thereafter, on 04.09.2024, blood sugar levels were examined. Apart from the above, the applicant's father did not undergo any medical treatment/surgical procedure.



7. The Supreme Court in the case of ***Pathapati Subba Reddy (Died) by Legal Representatives and Others Vs. Special Duty Collector (LA)***¹ relied upon its judgment in ***Basawaraj Vs. LAO***² and went on to observe as follows:-

XXX XXX XXX XXX XXX

"25. In Basavaraj v. LAO, this Court held that the discretion to condone the delay has to be exercised judiciously based upon the fact and circumstance of each case. The expression "sufficient cause" as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.

26. It would be beneficial to quote paragraph 12 of the aforesaid decision in Basawaraj case which clinches the issue of the manner in which equilibrium has to be maintained between adopting liberal approach and in

¹ (2024) 12 SCC 336

² (2013) 14 SCC 81



implementing the statute as it stands. Paragraph 12 reads as under:

"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. 'A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation' The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute."

27. This Court in the same breath in the same very decision vide paragraph 15 went on to observe as under: (Basavaraj case, SCC pp.87-88):

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to



approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

28. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

28.1. Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

28.2. A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;



28.3. The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

28.4. In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

28.5. Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

28.6. Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

28.7. Merits of the case are not required to be considered in condoning the delay; and

28.8. Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed,



tantamounts to disregarding the statutory provision."

XXX XXX XXX XXX XXX

8. Subsequently, in a recent decision, the Supreme Court in ***Shivamma (Dead) by LRs. Vs. Karantaka Housing Board and Others***³ has observed as follows:-

"123. From above, it is manifest that that the phrase "sufficient cause" in Section 5 of the Limitation Act is an expression of elastic import, incapable of precise definition, yet not without boundaries. Its purpose is to empower courts to advance the cause of justice by preventing genuine litigants from being shut out on account of unavoidable delays. At the same time, it is equally clear that the phrase is not a charter for indolence or a device to revive stale claims that the law of limitation otherwise extinguishes.

124. The burden to establish sufficient cause lies upon the party seeking condonation, and the court must be satisfied that the cause is real, bona fide, and free of negligence. Sufficiency of cause is to be determined contextually, on the totality of circumstances, with due regard to the conduct of the applicant and the prejudice caused to the opposite party. The inquiry is not

³ 2025 SCC Online SC 1969



mechanical but principled, resting on the dual pillars of bona fides and diligence.

125. The expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. The expression is to be construed with justice-oriented flexibility so as not to punish innocent litigants for circumstances beyond their control.

126. Courts must not condone gross negligence, deliberate inaction, or casual indifference, for to do so would undermine the maxim interest reipublicae ut sit finis litium and destabilise the certainty that limitation law seeks to secure.

127. The expression "sufficient cause" must be construed in a manner that advances substantial justice while preserving the discipline of limitation. The courts are not to be swayed by sympathy or technical rigidity, but rather by a judicious appraisal of whether the applicant acted with reasonable diligence in pursuing the remedy. Where explanation is bona fide, plausible, and consistent with ordinary human conduct, courts have leaned towards condonation. Where negligence, want of good faith, or a casual approach is discernible, condonation has been refused."

9. In view of the aforesaid directions/observations of the Supreme Court, the approach of Courts is required to be construed liberally in order to advance



substantial justice, but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act. The merits of the case are not required to be considered in condoning the delay. The length of the delay is relevant matter, which the Court must take into consideration while considering whether the delay should be condoned or not. The Court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay. The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. The Supreme Court observed that the increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner



requires to be curbed, of course, within legal parameters.

10. Moreover, in the aforesaid case of ***Shivamma***, the Supreme Court has observed that the expression “sufficient cause” is not itself a loose panacea for the ill of pressing negligent and stale claims. The expression is to be construed with justice-oriented flexibility so as not to punish innocent litigants for circumstances beyond their control. The Courts must not condone gross negligence, deliberate inaction, or casual indifference, and destabilise the certainty that limitation law seeks to secure.

11. In the instant case, we notice that, no specific cause has been shown for the huge delay of 897 days in filing the appeal. Instances of previous litigations before this Court have been stated which have got no relevance to the instant case. The only ground that could have been worth considering is the illness of the



father of the applicant, which was stated have been pushed him into financial crisis. As we have noted above, most of the investigations being conducted at the hospital were routine in nature right from the year 2019 to 2024. It was only in the year 2024, implantation of stents was done in the arteries of the father of the applicant due to cardiac problem he had and that too at the advance age of 80 years. There is no explanation worth its while for not having approached within time after the order was passed in the year 2021. As such, we hold that the applicant could not establish the existence of sufficient cause for the purpose of condoning the delay in filing the proposed appeal.

12. It is pertinent to mention here that the proceedings before the Family Court pertain to the custody of minor girl children. The applicant is the father of the girl children, who at the relevant time were aged 12 and 8. We are now in the year 2026.



Four years have elapsed since the judgment. It goes without saying that, given the facts and circumstances of the case, the applicant was negligent in pursuing the matter promptly before this Court after the impugned order of 2022 was passed.

13. In view of the aforesaid, we reject the IA No.1/2024.

14. The record of the proposed appeal is consigned.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(T.M.NADAF)
JUDGE