



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

COMMERCIAL APPEAL NO. 474 OF 2025

BETWEEN:

1. CHANDRASHEKHAR S
S/O SREEKANTA SETTY
AGED ABOUT 62 YEARS
2. SMT. C. VASUNDRA DEVI,
W/O CHANDRASHEKHAR S
AGED ABOUT 58 YEARS
3. KARTHIKESH N.C.
S/O CHANDRASHEKHAR S
AGED ABOUT 31 YEARS

ALL ARE RESIDING AT:
NO.70, 2ND FLOOR, ARYA NAGARA
4TH CROSS, J.P. NAGAR
1ST PHASE, BENGALURU - 560 078

...APPELLANTS

(BY SRI SURESH S. LOKRE, SENIOR ADVOCATE FOR
SRI SARAVANAN G., ADVOCATE)

AND:

1. LINGAIAH SETTY B V
S/O LATE K.B. VARADAIAH
AGED ABOUT 79 YEARS



2. SMT. B.L. PRABHAVATHAMMA
W/O LINGAIAH SETTY B.V.
AGED ABOUT 76 YEARS

BOTH ARE R/AT NO.62
G1-001, C.R. CLASSIC
7TH MAIN, 10TH CROSS
RBI LAYOUT, J.P. NAGAR
7TH PHASE
BENGALURU - 560 078

...RESPONDENTS

(BY SRI S.V. BHAT, ADVOCATE &
SRI B.J. VEERENDRA KUMAR, ADVOCATE FOR R-1 & 2)

THIS COMMERCIAL APPEAL IS FILED UNDER SECTION 13
(1-A) OF COMMERCIAL COURTS ACT, PRAYING TO SET ASIDE THE
JUDGMENT AND DECREE DATED 30.05.2024 PASSED BY THE
LXXXV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-86),
(COMMERCIAL COURT), BENGALURU IN COM.OS.NO.422/2024 &
ETC.

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

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA



ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellants have filed the present appeal impugning the judgment and decree dated 30.05.2024 passed by the learned LXXXV Additional City Civil and Sessions Judge (CCH-86), Bengaluru [**Commercial Court**] in Com.O.S.No.422/2024.
2. The respondents [hereinafter '**the plaintiffs**'] had instituted the said suit for recovery of a sum of ₹1,12,50,000/- with interest at the rate of 18% per annum from the date of suit, till realisation.
3. Admittedly, the summons of the said suit was issued, and the appellants, who were arrayed as defendants, acknowledged that they had received the summons through registered post acknowledgement due. Notwithstanding the same, the appellants did not join the said proceedings.
4. The plaintiffs claimed that they were operating a jewellery shop under the name *Srinath Jewellery Mart* at Raja Market, Avenue Road, Bengaluru. However, they had to close the business due to their health issues. At the material time, they were holding a stock of silver weighing 120 kgs. It is stated that the appellants were also engaged in the same business and



approached the plaintiffs to borrow the said stock for use in their business. The appellants agreed to return the stock after one year, and in the interregnum, they agreed to pay a sum of ₹66,000/- per month as interest. The appellants also handed over cheques aggregating ₹56,00,000/- and executed a letter to that effect on 03.03.2020.

5. The appellants had also availed a loan of ₹40,00,000/- from the plaintiffs and executed a memorandum for depositing the title deeds of certain immovable property, which the plaintiffs claim was by way of security for the said loan. The plaintiffs claim that the defendants continued to pay a sum of ₹66,000/- per month till 29.05.2021, but thereafter, discontinued the said payment. The plaintiffs claim they made repeated demands for the return of the silver stock, but the defendants failed to comply. The cheques issued by the appellants were presented, but were dishonoured with the notation '*payment stopped by the drawer*'. Since the appellants did not join the said proceedings, the learned Commercial Court proceeded ex parte, and the plaintiffs' action culminated in the judgment and decree, which is impugned in the above captioned appeal.



6. It is noted that the plaintiffs also filed an application under Section 152 of the Code of Civil Procedure, 1908 [**CPC**], for correction of the impugned judgment and decree in as much as the interest had been inadvertently awarded from 01.06.2021, whereas the suit claim already included the interest accrued from 01.06.2021 to the date of the suit. As such, the plaintiffs' application for correction of the judgment and decree to the extent that the interest would run '*from the date of the suit*' was allowed.

7. On 13.09.2024, the plaintiffs filed an execution petition being Ex.No.644/2024 for execution of the judgment and decree. Thereafter, on 30.11.2024, the appellants (defendants) filed an application under Order IX Rule 13 CPC (Com.Misc.No.88/2024) along with an application under Section 5 of the Limitation Act, seeking condonation of the delay in filing the said application for setting aside the ex parte judgment and decree. The said application (Com.Mis.No.88/2024) was dismissed by the learned Commercial Court by order dated 05.04.2025.

8. The appellants filed an appeal [Com. A. No. 391/2025] against the dismissal of Com.Misc.No.88/2024. However, this Court dismissed the same by an order dated 11.08.2025.



9. Thereafter, the appellants have filed the present appeal, after an inordinate delay of 398 days. The appellants have not set out any grounds explaining the delay in filing the present appeal. The only statement made in the application is that the filing of first appeal is a statutory right and cannot be curbed on the ground of delay.

10. The appellants seek that the impugned judgment and decree be set aside and the matter remanded for a decision afresh.

11. The plaintiffs had relied on a letter dated 03.03.2020 (Ex.P.1), which was issued by the defendants acknowledging the receipt of 120Kgs. of silver and undertaking to return the same within a period of one year. The said letter also records appellants' agreement to pay a sum of ₹66,000/- per month towards interest against the said supply. The said letter also records their understanding that as and when certain quantities of silver are returned, the interest would be reduced proportionately. On completion of the return of the entire silver and subject to the repayment of ₹40,00,000/-, the plaintiffs would discharge the deposit of title deeds. As noted above, the said letter also sets out



the details of the cheques issued by the appellants to discharge their obligations.

12. The appellants do not deny the issuance of the letter dated 03.03.2020 (Ex.P.1). The only objection raised by them is that the said document is not registered. The appellants also do not deny the receipt of a loan of ₹40,00,000/-, however, they claim that the same was required to be repaid within a period of ten (10) years. The appellants have also filed an application, producing the memorandum relating to the deposit of title deeds dated 03.03.2020, registered with the office of the Sub Registrar, Gandhinagar, Bengaluru. The said memorandum of deposit of title deeds indicates that the document was executed in consideration of a sum of ₹40,00,000/- and for the purpose of creating security for the repayment of a sum of ₹40,00,000/- borrowed by the appellants. However, it is noted that the suit was confined to the value of 120kgs of silver and the agreed amount of ₹66,000/- per month till the date of the suit.

13. Thus, although the appellants had also borrowed a sum of ₹40,00,000/-, the said transaction is admittedly not a subject matter of the suit.



14. There is no dispute that the appellants issued a letter dated 03.03.2020 [Ex.P.1], acknowledging receipt of 120kgs of silver and promising to return the same. The appellants also do not dispute that they had issued cheques for a sum aggregating ₹56,00,000/-, which were dishonoured as the appellants had stopped the payment against the said cheques. In view of the above, we concur with the impugned judgment and decree.

15. Having stated above, we have also noted that there is no explanation for the delay in filing the present appeal. In view of the above, the present appeal is dismissed both on the ground of delay as well as on merits.

16. Pending applications, if any, also stand disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**