



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

COMMERCIAL APPEAL NO. 639 OF 2025

BETWEEN:

1. M/S SANTHOSHI POLYMERS
S. NO. 372/8/8
HINGRAJ INDUSTRIAL ESTATE
ATHIYAWAD DABHEL
DABHEL - 396215
REPRESENTED BY ITS
AUTHORIZED SIGNATORY.
2. MR. DINESH ATKARE
PARTNER OF M/S SANTHOSHI POLYMERS,
S.NO. 372/8/
HINGRAJ INDUSTRIAL ESTATE
ATHIYAWAD DABHEL
DABHEL 396 215
3. MR. MADAN ATKARE
PARTNER OF M/S SANTHOSHI POLYMERS,
S.NO. 372/8/8,
HINGRAJ INDUSTRIAL ESTATE
ATHIYAWAD DABHEL
DABHEL 396 215

Digitally
signed by
NIRMALA
DEVI
Location:
HIGH COURT
OF
KARNATAKA

...APPELLANTS

(BY SRI. Y D HARSHA, ADVOCATE)



AND:

M/S KONKAN SPECIALTY POLY PRODUCTS
PRIVATE LIMITED
B-129, BAIKAMPADY INDUSTRIAL ESTATE,
MANGALURU -11
REPRESENTED BY ITS AUTHORIZED SIGNATORY
MR. MAHESH BONDAL

...RESPONDENT

THIS COMAP IS FILED UNDER SECTION 13 (1A) OF THE
COMMERCIAL COURTS ACT, 2015 R/W SECTION 96 OF THE
CPC PRAYING TO SET ASIDE THE JUDGMENT AND DECREE
DATED 3.02.2024 IN COM.OS NO.413/2020 PASSED BY THE IV
ADDITIONAL DISTRICT JUDGE AND COMMERCIAL COURT,
D.K., MANGALURU, AND DISMISS THE SUIT OF
PLAINTIFF/RESPONDENT.

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 appellant has filed the present appeal under Section 13(1A) of the Commercial Courts Act, 2015 impugning an order dated 03.02.2024 [**impugned order**] passed by the IV Additional District Judge and Commercial Court, D.K. Mangaluru, in Com.O.S.No.413/2020.
2. The present appeal has been filed after an inordinate delay of 611 days. The appellant has also filed an application seeking



condonation of delay in filing the appeal. The only explanation provided in the affidavit supporting the said application is that concerned employee who is looking after the proceedings in the commercial suit on behalf of the appellant had resigned shortly after conclusion of the trial. Therefore, the appellant was not aware of the proceedings till receiving of notice in execution proceedings.

3. We are not persuaded to accept that the said explanation is a credible one which provides a sufficient cause that prevented the appellant from filing the appeal within time.

4. It is not disputed that the appellant had appointed an advocate to assist in defending the said suit. Merely because one of the officials employed in the firm resigns, it cannot be a ground for not diligently pursuing the remedies available. Appellant No.1 is a partnership firm and appellant Nos.2 and 3 are its constituent partners. It is difficult to accept that the partners of the firm were not aware of the litigation in which the firm was involved. It is also relevant to note that the suit was instituted by the plaintiff for recovery of the goods, which were admittedly received by the appellant-firm. It was the appellant's defence that the goods



provided were substandard. However, there is no dispute that the same were not returned.

5. Given the legislative intent of providing firm timelines for proceedings in matters involving commercial disputes, condoning an inordinate delay of 611 days is against legislative intent.

6. In ***Government of Maharashtra v. M/s Borse Brothers Engineers & Contractors Pvt. Ltd. : (2021) 6 SCC 460***, the Supreme Court has observed as under:

55. Reading the Arbitration Act and the Commercial Courts Act as a whole, it is clear that when Section 37 of the Arbitration Act is read with either Article 116 or 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, the object and context provided by the aforesaid statutes, read as a whole, is the speedy disposal of appeals filed under Section 37 of the Arbitration Act. To read Section 5 of the Limitation Act consistently with the aforesaid object, it is necessary to discover as to what the expression “sufficient cause” means in the context of condoning delay in filing appeals under Section 37 of the Arbitration Act.



** ** *

58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression “sufficient cause” is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression “sufficient cause” is not itself a loose panacea for the ill of pressing negligent and stale claims....

** ** *

63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches.



7. In view of the above, we are unable to accept that the inordinate delay in the present case is required to be condoned. The application for condonation is rejected. Consequently, the appeal is rejected as well.

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

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE

Vmb
List No.: 2 SI No.: 13