HC-KAR

NC: 2026:KHC:64928
RSA No. 503 of 2019

CNR: KAHC010070702019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

REGULAR SECOND APPEAL NO.503 OF 2019 (PAR)

BETWEEN:

1. SMT. MALLAMMA
W/O LATE CHANDRASHEKARA
AGED ABOUT 44 YEARS,
RESIDING AT DODDEGOWDANAKOPPALU VILLAGE,
KIRUGAVALU HOBLI
MALAVALLI TALUK,
MANDYA DISTRICT.

2. MASTER CHINMAYIGOWDA
AGED ABOUT 8 YEARS,
MINOR,

REPRESENTED BY NATURAL GUARDIAN MALLAMMA,
RESIDING AT DODDEGOWDANAKOPPALU VILLAGE,
KIRUGAVALU HOBLI
MALAVALLI TALUK,
MANDYA DISTRICT.

...APPELLANTS

(BY SRI. KRISHNA S., AND
SRI. ANEESH KRISHNA FOR
SMT. SUMANA NAGANAND, ADVOCATES)

Digitally signed by VANDANA S
Location: High Court of Karnataka

AND:

1. SMT. KEMPAJAMMA
W/O LATE LINGEGOWDA @ MADAIAH,
AGED ABOUT 58 YEARS,
RESIDING AT HOUSE NO.894,
16TH MAIN, MICO LAYOUT,
HONGASANDRA,
BEGUR ROAD,
BENGALURU - 560 068.

2. SMT. PUSPALATHA
W/O SRI. ANANDA
AGED ABOUT 41 YEARS
RESIDING AT HOUSE NO.894,
16TH MAIN, MICO LAYOUT,
HONGASANDRA
BEGUR ROAD,
BENGALURU - 560 068.

3. SMT. DHANALAKSHMI
W/O MALLESHA,
AGED ABOUT 39 YEARS,
RESIDING AT HOUSE NO.894,
16TH MAIN, MICO LAYOUT,
HONGASANDRA
BEGUR ROAD,
BENGALURU - 560 068.

4. SRI. SOMALINGEGOWDA
S/O LATE LINGEGOWDA @ MADAIAH,
AGED ABOUT 37 YEARS,
RESIDING AT HOUSE NO.894,
16TH MAIN, MICO LAYOUT,
HONGASANDRA
BEGUR ROAD,
BENGALURU - 560 068.

5. SRI. THRANALINGEGOWDA
S/O LATE LINGEGOWDA @ MADAIAH,
AGED ABOUT 34 YEARS,
RESIDING AT HOUSE NO.894,
16TH MAIN, MICO LAYOUT,
HONGASANDRA
BEGUR ROAD,
BENGALURU - 560 068.

6. SMT. CHANDRAMMA
W/O LATE NANJEGOWDA
AGED ABOUT 54 YEARS,
R/AT HANGRAPURA VILLAGE
KIRUGAVALU HOBLI,
MALAVALLI TALUK,
MANDYA DISTRICT.

7. SRI. N. MAHADEVA
W/O LATE NANJEGOWDA
AGED ABOUT 42 YEARS,

R/AT HANGRAPURA VILLAGE
KIRUGAVALU HOBLI,
MALAVALLI TALUK,
MANDYA DISTRICT.

8. SRI. LINGEGOWDA
S/O LATE NANJEGOWDA
AGED ABOUT 40 YEARS,
R/AT HANGRAPURA VILLAGE
KIRUGAVALU HOBLI,
MALAVALLI TALUK,
MANDYA DISTRICT.

9. SRI. PUTTAMADU
S/O LATE YALANINGANA KULLEGOWDA
(SINCE DEAD REPRESENTED BY HIS LRS)

9(A) BHAGYAMMA
W/O LATE SRI. PUTTAMADU
AGED MAJOR
RESIDING AT HANGRAPURA VILLAGE
KIRUGAVALU HOBLI,
MALAVALLI TALUK
MANDYA DISTRICT – 571 432.

9(B) BHANUPRIYA
D/O LATE SRI. PUTTAMADU
AGED MAJOR
RESIDING AT HANGRAPURA VILLAGE
KIRUGAVALU HOBLI,
MALAVALLI TALUK
MANDYA DISTRICT – 571 432.

9(C) BHAVANI
D/O LATE SRI. PUTTAMADU
AGED MAJOR
RESIDING AT HANGRAPURA VILLAGE
KIRUGAVALU HOBLI,
MALAVALLI TALUK
MANDYA DISTRICT – 571 432.

9(D) BHASKAR
S/O LATE SRI. PUTTAMADU
AGED MAJOR
RESIDING AT HANGRAPURA VILLAGE
KIRUGAVALU HOBLI,
MALAVALLI TALUK

MANDYA DISTRICT – 571 432.

(RESPONDENT NOS. 9(A) TO 9(D)
WERE BROUGHT ON RECORD VIDE ORDER DATED: 05.10.2026
PASSED BY THIS HON'BLE COURT
ON I.A. NO. 3/2026 FILED IN THE PRESENT RSA)

10. SRI K MADAIAH
S/O YELGANINGANA KULLEGOWDA

(SINCE DEAD REPRESETNED BY HIS LRS)

10(A) SMT. DODDA BHAGYAMMA
W/O LATE K MADAIAH
AGED ABOUT 64 YEARS,
RESIDING AT DOOR NO.695,
6TH MAIN ROAD,
KRISHNA NADI ROAD,
BRINDAVANA NAGARA
DOBI GHAT
BENGALURU - 560 019.

10(B) SMT. VEDAVATHI
D/O LAET K MADAIAH
AGED ABOUT 36 YEARS,
RESIDING AT DOOR NO.695,
6TH MAIN ROAD,
KRISHNA NADI ROAD,
BRINDAVANA NAGARA
DOBI GHAT
BENGALURU - 560 019.

10(C) SRI. D M ARUNA
S/O LATE K MADAIAH
AGED ABOUT 34 YEARS,
RESIDING AT DOOR NO.695,
6TH MAIN ROAD,
KRISHNA NADI ROAD,
BRINDAVANA NAGARA
DOBI GHAT
BENGALURU - 560 019.

10(D). SRI. D M KIRANA
S/O LATE K MADAIAH
AGED ABOUT 32 YEARS,
RESIDING AT DOOR NO.695,
6TH MAIN ROAD,

KRISHNA NADI ROAD,
BRINDAVANA NAGARA
DOBI GHAT
BENGALURU - 560 019.

10(E) SRI.D.M. KARTHIK
S/O LATE K MADAIAH
AGED ABOUT 30 YEARS,
RESIDING AT DOOR NO.695,
6TH MAIN ROAD,
KRISHNA NADI ROAD,
BRINDAVANA NAGARA
DOBI GHAT
BENGALURU - 560 019.

11. SMT. DUNDAMMA
W/O LATE NANJEGOWDA,
AGED ABOUT 74 YEARS,
RESIDING AT DODDEGOWDANA KOPPALU
KIRUGAVALU HOBLI,
MALAVALLI TALUK,
MANDYA DISTRICT.

…RESPONDENTS

(BY SRI. M. BABU, ADVOCATE FOR C/R-10 (A TO E)
R-6, R-7, R-8, R-11 ARE SERVED
VIDE ORDER DATED 14.02.2024, NOTICE TO R-1 TO R-5 IS H/S
R9(A) – SERVED VIDE ORDER DATED 05.10.2026
NOTICE TO R-9 (B TO D) ARE H/S)

THIS RSA IS FILED UNDER SEC.100 OF CPC AGAINST THE JUDGMENT AND DECREE DATED 23.11.2018 PASSED IN R.A.NO.7/2018 AND R.A.NO.49/2018 ON THE FILE OF THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE, MANDYA, DISMISSING THE APPEALS FILED AGAINST THE JUDGMENT AND DECREE DATED 15.12.2016 PASSED IN O.S.NO.15/2014 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC., MALAVALLI.

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL JUDGMENT

The appellants were plaintiffs in O.S.No.15/2014 filed by them against the respondents – defendants for partition and separate possession of their alleged share in the suit schedule immovable properties and for other reliefs.

2. The said suit having been contested by the respondents-defendants, the Trial Court proceeded to partly decree the suit in favour of the appellants – plaintiffs in relation to item Nos.3 to 8 of the suit schedule properties and dismissed the suit insofar as item Nos.1, 2 and 9 of the suit schedule properties. Aggrieved by the dismissal of the suit in relation to item Nos.1, 2 and 9 of the suit schedule properties, the appellants – plaintiffs filed R.A.No.7/2018 before the First Appellate Court. Similarly, aggrieved by the judgement and decree of the Trial Court decreeing the suit in respect of item Nos.3 to 8 of the suit schedule properties, the respondents – defendants approached the First Appellate Court in R.A.No.49/2018 and in the said appeal filed by

the appellants – plaintiffs in R.A.No.7/2018, the appellants – plaintiffs filed I.A.No.1 under Order XLI Rule 3(A) r/w Section 5 of the Limitation Act seeking condonation of delay of 405 days in filing the appeal. Similarly, in R.A.No.49/2018, the respondents – defendants also filed an application seeking condonation of delay of 102 days in filing the appeal in R.A.No.49/2018 before the First Appellate Court.

3. By the impugned common judgment, the First Appellate Court dismissed both the applications thereby declining to condone the delay in filing both the appeals and consequently, proceeded to dismiss both the appeals by passing the impugned judgment, which is assailed by the plaintiffs by way of the present appeal, which came to be admitted on 12.10.2026 to consider the following substantial questions of law:

> *"i) Whether the First Appellate was justified in dismissing the appeal filed by the appellant as well as the application filed by the appellant under Order XLI Rule 3 CPC?*
>
> *ii) Whether the First Appellate Court was justified in dismissing the appeal as barred by limitation by dismissing*

the application filed by the appellant to condone the delay of 405 days in filing the appeal?"

4. Heard learned counsel for the appellants and learned counsel for respondent No.10 (a) to (e) and perused the material on record.

5. In addition to reiterating the various contentions urged in the appeal and referring to the material on record, learned counsel for the appellants submits that the inability and omission on the part of the appellants to prefer the aforesaid appeal in R.A.No.7/2018 and R.A.No.49/2018 within time was due to bonafide reasons, unavoidable circumstance and sufficient cause and as such, the impugned judgment may be set aside and the delay in filing the appeals may be condoned and matter may be remitted back to the First Appellate Court, for reconsideration on merits, afresh and in accordance with law.

6. Per contra, learned counsel for respondent Nos.10 (a to e) submits that he has no objection for the impugned judgment to be set aside and for condoning the delay on the part of the appellants – plaintiffs in filing R.A.No.7/2018 subject to the

condition that the impugned judgment rejecting the condonation of delay application filed by the respondents – defendants in R.A.No.49/2018 also be set aside and both the appeals remitted back to the First Appellate Court and the delay in filing R.A.No.49/2018 also be condoned and both the appeals be restored to the file of the First Appellate Court for disposal on merits, in accordance with law.

7. As stated earlier, except respondent Nos.10 (a to e), who is represented by learned counsel, the remaining respondents have been served with notice of the appeal and have chosen to remain unrepresented and have not contested the appeal.

8. In view of the aforesaid facts and circumstances and the joint submissions made by both sides, I deem it just and appropriate to set aside the impugned common order dated 23.11.2018 passed in R.A.No.7/2018 and R.A.No.49/2018 and allow the condonation of delay applications filed by the respective appellants in both the appeals and restore both the appeals to the file of the First Appellate Court for disposal on merits and in accordance with law.

9. In the result, I pass the following:

ORDER

(a) The appeal is hereby ***allowed***.

(b) The impugned common judgment dated 23.11.2018 passed in R.A.No.7/2018 and R.A.No.49/2018 by the V Addl. District & Sessions Judge, Mandya, is hereby set aside.

(c) The applications for condonation of delay filed under Order XLI Rule 3(A) CPC r/w Section 5 of the Limitation Act filed by the appellants – plaintiffs in R.A.No.7/2018 as well as by the appellants – defendants in R.A.No.49/2018 are hereby allowed.

(d) Delay in filing R.A.No.7/2018 as well as delay in filing R.A.No.49/2018 hereby stands condoned.

(e) R.A.No.7/2018 and R.A.No.49/2018 are hereby restored to the file of the First Appellate Court.

(f) Matter is remitted back to the First Appellate Court for reconsideration of both appeal in R.A.No.7/2018

and R.A.No.49/2018, afresh, on merits and in accordance with law.

(g) Appellants and respondent Nos.10 (a to e) shall appear before the First Appellate Court on **14.12.2026.**

(h) The First Appellate Court shall issue Court Notice to the unrepresented parties / non-appearing parties and dispose of both R.A.No.7/2018 and R.A.No.492018, on merits, in accordance with law, as expeditiously as possible, without reference to delay in filing the appeals, which has stood condoned by virtue of this order, in favour of both the appellants, in both the appeals.

(i) All rival contentions on all aspects of the matter are kept open and no opinion is expressed on the merits / demerits of the rival contentions.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

SV
List No.: 1 Sl No.: 16