NC: 2026:KHC:22330
W.P. No.14644/2022

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.14644/2022 (GM-CPC)

BETWEEN:

SMT. LAKSHMAMMA
W/O KEMPARANGAIAH
D/O DODDASIDDAIAH
AGED 70 YEARS
R/O. PEMMANAHALLI
UDIGERE HOBLI
TUMAKURU TQ AND DISTRICT-572140.

...PETITIONER

(BY SRI. M.B. CHANDRACHOODA, ADV.,)

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

AND:

1. SRI. RUDRAIAH
   S/O LATE HOMBAIAH
   AGED 55 YEARS.

2. SMT. JAYAMMA
   W/O BASAVARAJU
   AGED 65 YEARS.

3. SMT. GANGANARASAMMA
   W/O LATE CHIKKARANGAIAH
   AGED 65 YEARS.

4. SRI. CHIKKASASALAIAH
   S/O LATE CHIKKARANGAIAH
   AGED 45 YEARS.

5. SMT. SHARADAMMA
D/O LATE CHIKKARANGAIAH
W/O BASAVARAJU
AGED 40 YEARS.

RESPONDENTS NO.1 TO 5
ARE R/O KALKERE VILLAGE
HEBBUR HOBLI
TUMKRU TALUK AND DISTRICT-572120.

6. SMT. VIJAYAKUMARI
D/O LATE CHIKKARANGAIAH
W/O SIDDAGANGAIAH
AGED ABOUT 37 YEARS
R/O KITHAGANAHALLI VILLAGE
GULUR HOBLI
TUMAKURU TQ AND DIST-572118.

7. SRI. BASAVARAJU
S/O LATE KEMPEERAIAH
AGED ABOUT 55 YEARS
R/O KALKERE VILLAGE
HEBBUR HOBLI
TUMKURU TQ AND DIST-572120.

…RESPONDENTS

(BY SRI. B.V. GANGI REDDY, ADV., FOR R3 & R4
SRI. SURENDRA Y.S. ADV., FOR R1
V/O/DTD:24.08.2022, NOTICE TO R2 IS TREATED AS SERVED
R5 TO R7 ARE SERVED AND UNREPRESENTED)

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THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DTD. 05.04.2022 PASSED IN RA NO.18/2020 (RA NO.23/2018) ON THE FILE OF II ADDITIONAL DISTRICT AND SESSIONS JUDGE, TUMKURU, VIDE ANNX-F BY ISSUE OF WRIT OF CERTIORARI & ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This writ petition is filed challenging the order dated 05.04.2022 passed in R.A.No.18/2020 by the II Additional District and Sessions Judge, Tumakuru (for short, 'the Lower Appellate Court').

2. Sri.M.B.Chandrachooda, learned counsel for the petitioner submits that the respondents have filed an appeal in R.A.No.18/2020 challenging the judgment and decree in O.S.No.107/2003. The said appeal was filed with a delay of more than 7½ years. The Lower Appellate Court recorded the evidence of the parties. However, it allowed the application and condoned the enormous delay without assigning any reasons. It is submitted that the matter may be remitted back to the Lower Appellate Court to re-consider the application filed under Section 5 of the

Limitation Act, 1963 (for short, 'the Act'). Hence, he seeks to allow the petition.

3. *Per contra*, Sri.A.V.Gangi Reddy, learned counsel for the respondent Nos.3 and 4 submits that the Lower Appellate Court ought to have considered the application by assigning cogent reasons as the appellants in R.A.No.18/2020 have given sufficient evidence and showed sufficient cause to condone the delay. Hence, he also fairly concedes to remand the matter back to the Lower Appellate Court.

4. Having heard the learned counsels appearing for the parties, it is to be noticed that the petitioner's suit in O.S.No.107/2003 for the relief of partition and separate possession was decreed on 18.12.2010 and the respondents preferred R.A.No.18/2020 challenging the said judgment and decree. The said appeal was filed along with an application under Section 5 of the Limitation Act, seeking to condone the delay. The application also

did not indicate the period of delay. Be that as it may, the parties to the proceedings have adduced the evidence in support and also opposing the application seeking for condonation of delay. The Trial Court, under the impugned order, without assigning any reasons, has condoned the enormous delay.

5. In my considered view, the Trial Court ought to have assigned detailed reasons either accepting the cause shown to condone the delay or ought to have rejected the application but, without assigning any reasons, has condoned the enormous delay which requires interference. Hence, this Court proceeds to pass the following:

ORDER

(i) The writ petition is disposed of.

(ii) The impugned order dated 05.04.2022 passed in R.A.No.18/2020 is set aside.

(iii) The Lower Appellate Court is directed to hear the petitioner as well as the respondents on the application filed by the respondent Nos.3 to 7

under Section 5 of the Limitation Act and pass a reasoned order.

(iv) The parties shall appear before the Lower Appellate Court on 18.06.2024.

(v) The Lower Appellate Court shall endure to dispose of the application as early as possible.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 1 Sl No.: 33