



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE JYOTI M

MISCELLANEOUS FIRST APPEAL NO.6622 OF 2021 (AA)

BETWEEN:

M/S SRI MALLIKARJUNA RICE MILLS
AGARADAHALLI,
BHADRAVATHI TALUK,
PARTNERSHIP FIRM BY MANAGING,
PARTNER SRI, M E BASAVARAJAPPA,
S/O. M ESHWARAPPA,
R/O. AGARADAHALLI,
BHADRAVATHI TALUK,
SHIVAMOGGA DISTRICT-577227

...APPELLANT

(BY SRI. BASANAGOUDA, ADVOCATE FOR
SRI. VIRUPAKSHIAH P.H., ADVOCATE)

AND:

1. KARNATAKA FOOD AND CIVIL SUPPLIES
CORPORATION LTD
BANGALORE BY MANAGING DIRECTOR.
2. H. NAGARAJA SHETTY, IAS
ARBITRATOR AND CHAIRMAN,
MYSORE SUGAR CO., LTD.,
JC ROAD, BANGALORE

...RESPONDENTS

(BY SRI. NANDISH GOWDA G.B., ADVOCATE FOR R1;
NOTICE TO R2 DISPENSED WITH VIDE ORDER
DATED 12.12.2022)





THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 39 OF THE ARBITRATION ACT, 1940.

THIS MISCELLANEOUS FIRST APPEAL IS LISTED FOR ORDERS, THIS DAY, THE JUDGMENT IS DELIVERED AS UNDER:

ORAL JUDGMENT

Sri.Basanagouda, counsel for the appellant and Sri.Nandish Gowda G.B., counsel for the respondent No.1 have appeared in person.

2. The appeal is filed to set-aside the order dated:03.04.2014 passed by the Principal Senior Civil Judge and CJM, at Shivamogga in AROS No.10/1990 on several grounds as set out in the Memorandum of appeal.

3. The captioned appeal is listed today for Hearing - interlocutory application, i.e., I.A.No.1/2022, for condonation of a delay of 2082 days in filing the appeal.

4. Counsel for the appellant submits that there is a delay of 2082 days in filing the appeal. Accordingly, an application is filed in I.A.No.1/2022 seeking condonation of



the delay. Sri.M.E.Basavaraju - appellant has sworn to an affidavit explaining the sufficiency of reason to condone the delay. Counsel submits that the delay caused in filing the appeal is neither wanton nor with any malafide intention. Hence, he submits that the delay in filing the appeal may be condoned.

Counsel Sri. Nandish Gowda G.B., for the respondent No.1, submits that a detailed statement of objections is filed to I.A.No.1/2022, and the same may be taken note of, and the application may be dismissed. Counsel on instructions further submits that the decree has already been executed. Counsel, therefore, submits that the appeal may be dismissed.

5. Heard the contentions urged on behalf of the respective parties on condonation of delay and perused the appeal papers, application, affidavit and the statement of objections with utmost care.



6. Let me see whether the appellant has made out grounds to condone the delay in filing the appeal. Let us quickly glance through the law of limitation.

The principle enunciated under Section 5 of the Limitation Act is that a Court is vested with judicial discretion to admit an appeal, or an application filed after the expiry of the period of limitation, on sufficient cause being shown for the delay.

It must be remembered that the Court has full discretion to refuse an extension of time, but this discretion, like other judicial discretions, must be exercised with vigilance and circumspection according to justice, common sense, and sound judgment. It must not be exercised in an arbitrary, vague, and fanciful manner. Delay cannot be condoned as a matter of "judicial generosity". Condonation of delay cannot be claimed as of right.



Having regard to the words "may be admitted " in Section 5, the Court has discretion, even where sufficient cause is shown, in not admitting an appeal filed after time, on the ground that the extension of time under that Section is a matter of concession or indulgence to the appellant/ petitioner who has come late and cannot be claimed as of right.

The proof of "sufficient cause" is a condition precedent for the exercise of the discretionary jurisdiction vested in the Court. What counts is not the length of the delay but the sufficiency of the cause.

The Court should not come to the aid of a party where there has been an unwarrantable delay in seeking the statutory remedy. Any remedy must be sought with reasonable promptitude, having regard to the circumstances.

No doubt, there are authorities to say that the words "sufficient cause" should receive a liberal construction to



advance substantial justice. What is sufficient cause cannot be described with certainty because the facts on which questions may arise may not be identical. What may be sufficient cause in one case may be otherwise in another. Hence, the whole thing should be decided with reference to the circumstances of each case. Each case must be decided on its facts. But it must not be lost sight of that the appellant/ petitioner will have to prove that he was diligent. Further, he will have to explain the day-to-day delay from the last day of limitation.

7. Reverting to the facts of the case, a petition under Section 14(2) of the Arbitration Act, 1940, was filed seeking a decree in terms of the award passed by the arbitrator. The Trial Court vide Judgment and Decree dated 03.04.2014, allowed the petition. Aggrieved by the same, the plaintiff has filed the captioned appeal. There is a delay of 2082 days in filing the appeal. Accordingly, an application is filed in I.A.No.1/2022 to condone the delay.



Perused the application and also the affidavit with care. M.E.Basavaraju - appellant has sworn to a declaration of facts in the form of an affidavit. In the affidavit, he has stated that the respondent No.1 - Corporation had filed Execution Proceedings against him in terms of the Order dated 03.04.2014 passed in AROS.10/1990, and he was unaware of the order dated 03.04.2014. He has further stated that his counsel had not intimated to him regarding the said order, and he came to know about the order during August, 2021. Subsequently, he obtained the certified copies of the documents and instructed his counsel at Bangalore to file the instant appeal. Further, in view of the spread of Corona virus in the country, he could not come down to Bangalore and give instructions to prefer the instant appeal in time.

I am unable to accept the reasons accorded in the affidavit. The suit was filed for the recovery of money. As the suit was decreed, the appellants should have been more diligent. The contention that the appeal was not filed



due to the COVID-19 pandemic cannot be accepted. The reason is simple. The Court decreed the suit on 03.04.2014 and the appeal was filed in 2021. The appellants ought to have filed the appeal within three months. The world witnessed Covid-19 pandemic from March 2020. Nothing prevented the appellants from filing the appeal well in time or even before the outbreak of Covid-19 pandemic. There is a massive, unexplained delay of approximately seven years in filing the present appeal, as the decree was passed in 2014 and the appeal was filed in 2021. The Appellant was indolent and failed to exercise due diligence, sleeping on their rights for nearly seven years. In my view, the appellants have not made any grounds to condone the delay. As already noted above, the Court has full discretion to refuse an extension of time. I decline to extend the time and condone the delay.

Furthermore, the Hon'ble Apex Court in ***SHIVAMMA (DEAD) BY LRS VS. KARNATAKA HOUSING BOARD & OTHERS - CIVIL APPEAL NO. 11794 OF 2025,***



disposed of on 12.09.2025, has held that the constitutional courts ought to be cognizant of the apathy and pangs of a private litigant. Litigants cannot be placed in situations of perpetual litigation, wherein the fruits of their decrees or favorable orders are frustrated at later stages. The Apex Court has also held that no litigant should be permitted to be so lethargic and apathetic, much less be permitted by the courts to misuse the process of law. The reasons accorded in the affidavit and the submission made on behalf of the appellants regarding the delay in filing the appeal are not satisfactory, and hence, this Court exercises the discretionary power and refuses an extension of time. Moreover, counsel for the respondent submits that the decree has already been executed. Hence, I decline to condone the delay. Accordingly, I.A.No.1/2022 is dismissed.

8. This Court has dismissed the application to condone the delay; hence, there is nothing to discuss on



the merits of the case. Resultantly, the appeal is ***dismissed.***

Because of the dismissal of the appeal, pending interlocutory applications, if any, are disposed of, and the interim direction, if any, stands discharged.

**SD/-
(JYOTI M)
JUDGE**

SS
List No.: 1 Sl No.: 15