

IN THE COURT OF THE SENIOR CIVIL JUDGE AND
JMFC., AT PAVAGADA.

Present : Sri. V.HANUMANTHAPPA,. M.A, L.L.B.
Senior Civil Judge & JMFC.,
Pavagada

:: Ex.A. No.1/2018 ::

Dated this the 11th day of July 2019.

Appellant : Hanumappa
@ Sannaramappa

-V/s-

Respondents : Lakshamma & another

:: ORDER ON I.A. No.1 ::

This application is filed U/sec. 5 of Limitation Act R/w Order 41 rule 3A of CPC for condonation of delay in filing the appeal.

2. This application supported with an affidavit sworn by the appellant by contending that, He has challenged the judgment and decree passed in Execution Petition No.59/1999 dated : 05-07-2018. Since, there was delay in preferring this appeal as he had wrongly approached the Hon'ble High Court of Karnataka Bangalore by preferring Rev.Petition instead of filing the appeal. Therefore, the delay of 80 days in filing the appeal, the delay is because of the bona-fide reason. If

the application is not allowed, he will be put to loss and hardship. Hence, he pray for allowing the application.

3. The respondents have not filed any objections to this application. The appellant has been examined as PW-1.

4. I have heard arguments and perused the material available on record. The following points would arise for my consideration.

1. Whether the appellant made out reasonable grounds to condone the delay ?
2. What order ?

5. My answer to above point as follows.

Point No. 1 In the Affirmative

Point No.2 As per final order for the following.

:: REASONS ::

6. Pint No.1 :- This appeal preferred by the appellant challenging the judgment and decree passed by the learned Civil Judge and JMFC, Pavagada in Ex.No.59/1999 on the application filed by the objector. After contest, the Execution petition filed by the appellant came to be dismissed against which the appellant had preferred Rev.petition before the Hon'ble High Court of Karnataka but later he came to know that, the said Revision Petition is not maintainable and hence he came

to this Court by preferring this appeal. PW-1 in his affidavit filed in lieu of chief examination he has reiterated the averments of the affidavit annexed to IA No.1. PW-1 has not been cross examined by the respondent. No doubt, there is delay in preferring the appeal, but it is well settled law that delay is to be condoned by imposing cost. In this case, the evidence of PW-1 remained unchallenged. If the application is allowed by condoning delay, no hardship would be caused to the respondents. Hence. **I answer to this Point is in the Affirmative.**

7. Point No.2 :- In view of my above discussion I proceed to pass allowing.

:: ORDER ::

I.A.No.1 filed by appellant
U/sec. 5 of Limitation Act is
allowed, delay is condoned on cost
of Rs.300/-.

(Directly dictated to the Typist on computer, typed by her, revised by me and after corrections pronounced in the open court on this the 11th day of July, 2019.)

(V.HANUMANTHAPPA)
Senior Civil Judge & JMFC,
Pavagada.

