IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

COMMERCIAL APPEAL NO.273 OF 2024

BETWEEN:

SRI JANARDHANA
S/O. LATE CHANDU MOOLYA
AGED ABOUT 42 YEARS
R/AT GANADAKOTYA HOUSE
KEDILA VILLAGE
PERAMOGRU POST
BANTWAL TALUK-574 325
D. K. DISTRICT

...APPELLANT

(BY SRI. SRIKANTH N. V., ADVOCATE)

AND:

1. NATIONAL HIGH WAY AUTHORITY OF INDIA
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS
PROJECT IMPLEMENTATION UNIT
MANGALURU
NH-75 (NH-48)
HASSAN-BANTWAL SECTION
OFFICE AT DOOR NO.3-29
"BETHEL"
THARETHOTA
NEAR PUMPWELL
MANGALURU-575 005

REPRESENTED BY ITS PROJECT DIRECTOR
AND DGM (TECH)
SRI. H. S. LINGEGOWDA

2. SMT. DHARMAMMA
W/O. LATE CHANDU MOOLYA
R/AT GANADAKOTYA HOUSE
KEDILA VILLAGE
PERAMOGRU POST
BANTWAL TALUK-574 325
D.K. DISTRICT

3. SMT. VARIJA
D/O. LATE CHANDU MOOLYA
W/O. VITTALA MOOLYA
R/AT ALAMPURI HOUSE
KAVALAPADURU VILLAGE
BANTWAL TALUK-574 265
D.K. DISTRICT

4. SRI. G. C. CHANDRASHEKARA
S/O. LATE CHANDU MOOLYA
R/AT GANADAKOTYA HOUSE
KEDILA VILLAGE
PERAMOGRU POST
BANTWAL TALUK-574 325
D.K. DISTRICT

5. SMT. MEENAKSHI
D/O. LATE CHANDU MOOLYA
W/O. SRI. VISHWANATHA
R/AT PANGALPADY HOUSE
AJJIBETTU VILLAGE
BANTWAL TALUK-574 324
D.K. DISTRICT

6. SMT. SUDHAMANI
D/O. LATE CHANDU MOOLYA
W/O. SRI. UMESH
R/AT MANAGAJE HOUSE
KAVALAPADURU VILLAGE
BANTWAL TALUK-574 265
D.K. DISTRICT

7. SMT. HARINAKSHI
D/O. LATE CHANDU MOOLYA
W/O. SRI. NARAYANA
R/AT GOLITYARADDA HOUSE
THENKAKAJEKARU VILLAGE
BANTWAL TALUK-574 233
D.K. DISTRICT

8. SMT. NALINI
D/O. LATE CHANDU MOOLYA
W/O. SRI. SANTHOSH A. N.
R/AT AVETHIKALLU HOUSE
VITTALA KASABA VILLAGE
BANTWAL TALUK-574 243
D.K. DISTRICT

9. THE ARBITRATOR AND
DEPUTY COMMISSIONER
D.K. DAKSHINA KANNADA
MANGALURU-575 001

…RESPONDENTS

(BY SRI. NITHYANANDA M. K., ADV. FOR R1;

V/O DATED 25.07.2025, NOTICE TO R2 TO R8 IS DISPENSED WITH;

R9 IS SERVED AND UNREPRESENTED)

THIS COMAP IS FILED UNDER SECTION 13(1A) OF THE COMMERCIAL COURTS ACT, 2015 R/W SECTION 37(1)(C) OF THE ARBITRATION AND CONCILIATION ACT, 1996, PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT AND DECREE DATED 04.09.2023 PASSED IN AP NO.12/2023 ON THE FILE OF IV ADDITIONAL DISTRICT AND COMMERCIAL COURT, D.K., MANGALURU, THEREBY ALLOW THE COUNTER CLAIM/CROSS APPEAL FILED BY THE APPELLANT AND RESPONDENT NO.2 TO 7 HEREIN UNDER SECTION 34(2) OF THE ARBITRATION AND CONCILIATION ACT, 1996.

THIS COMMERCIAL APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 29.08.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.,** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
AND
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

CAV JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This Commercial Appeal is filed under Section 13(1A) of the Commercial Courts Act, 2015 read with Section 37(1)(c) of the Arbitration and Conciliation Act, 1996 challenging the judgment and decree dated 04.09.2023 passed by the IV Additional District Judge and Commercial Court, D.K, Mangaluru in A.P.No.12/2023, whereby the petition filed under Section 34(2) of the Arbitration and Conciliation Act read with Section 3G(6) of the National Highways Act, 1956 was dismissed as withdrawn, the counter-claim/cross-appeal filed by the landowners was also dismissed and the arbitral award dated 13.12.2022 passed by the learned Arbitrator was confirmed.

2. We have heard Shri. Srikanth N.V, learned counsel appearing for the appellant and Shri. Nithyananda M.K, learned counsel appearing for respondent No.1.

3. I.A.No.01/2024 is filed seeking condonation of delay of 271 days in filing the appeal. In the affidavit filed in support of the application seeking condonation of delay, it is

stated that the impugned judgment and decree was passed on 04.09.2023, the certified copy was applied for on 05.09.2023 and was obtained on 23.10.2023. On consulting his advocate at Mangaluru in February 2024, the appellant was advised to obtain the entire trial Court records, which he secured in March 2024 and handed over to an advocate at Bengaluru. Thereafter, MFA No.2261/2024 was filed on 26.03.2024. Upon an office objection raised regarding its maintainability, the appeal was withdrawn by order dated 29.05.2024, with liberty to file a commercial appeal. It is further submitted that the delay arose from these circumstances, was *bona fide* and unintentional and that the appellant would be put to irreparable injury and loss, if the appeal is not considered on merits and seeks to condone the delay.

4. The learned counsel appearing for respondent No.1 opposes the application for condonation of delay, contending that MFA No.2261/2024, filed on 26.03.2024 against the judgment dated 04.09.2023, was itself belated having been instituted 204 days after the judgment and

that, following its dismissal on 29.05.2024 with liberty to pursue the appropriate remedy, the present commercial appeal was filed only on 30.07.2024, more than 60 days thereafter. It is submitted that the appellant has not stated a satisfactory explanation for the delay. Respondent No.1 further states that compensation of Rs.1,13,92,935/- (including TDS) and Rs.2,57,479/- had been paid for the acquired lands and that payment of the enhanced compensation under the arbitral award dated 13.12.2022 had been approved, but the appellant had not received that amount.

5. We have considered the contentions advanced and perused the averments made in the affidavit accompanying the application. The Apex Court in the case of ***Government of Maharashtra (Water Resources Department) v. Borse Brothers Engineers and Contractors Private Limited*** reported in ***(2021) 6 SCC 460,*** has clearly held that sufficient cause for condonation of delay must be assessed in the context of the statutory

object of speedy resolution of disputes. The Apex Court held the following:-

> ***"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. This Court, in Basawaraj v. LAO , has held : (SCC pp. 85-88, paras 9-15)*
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> > *"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose.*

10. In Arjun Singh v. Mohindra Kumar this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible.

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. 'A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.' The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, Para 605 p. 266:

'605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons

supporting the existence of statutes of limitation, namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.'

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches.

14. In P. Ramachandra Rao v. State of Karnataka this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in Abdul Rehman Antulay v. R.S. Nayak .

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

x x x x x

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."*

6. In ***State of Uttar Pradesh v. Satish Chand Shivhare and Brothers*** reported in ***2022 SCC OnLine SC 2151***, the Apex Court declined to interfere with the dismissal of an appeal under Section 37 where sufficient cause had not been shown for a delay of 337 days. It was held that the right of appeal is subject to limitation and that a liberal approach requires a plausible explanation for the delay.

7. In the instant case, the appellant states that he obtained the certified copy on 23.10.2023. However, the affidavit does not disclose any circumstance preventing him from taking steps to institute the appeal until he consulted his advocate in February 2024. The subsequent advice to obtain the trial Court records does not explain this preceding period of inactivity. Nor is it explained why procurement of the entire records prevented the timely institution of the appeal. The recital of successive steps, without accounting for the material intervening periods, does not establish sufficient cause. The institution of MFA No.2261/2024 on 26.03.2024 does not explain the delay preceding its filing. Further, after withdrawal of the MFA on 29.05.2024, the present appeal was instituted only on 31.07.2024. No explanation is furnished for this further interval. The liberty granted to pursue the appropriate remedy does not, by itself, condone the existing delay or dispense with the requirement of explaining the subsequent delay. We therefore find that the explanation furnished by the

appellant does not constitute sufficient cause for condonation of the delay.

8. In the above view of the matter, we are of the opinion that the appellant has failed to establish sufficient cause for condonation of the delay. Accordingly, I.A.No.1/2024 seeking condonation of delay is ***dismissed***. Consequently, the appeal is also ***dismissed***.

All pending interlocutory applications shall also stand *disposed of.*

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(T.P.VIVEKANANDA)
JUDGE

cp*