



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 05<sup>TH</sup> DAY OF NOVEMBER, 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE V SRISHANANDA**

**MISCELLANEOUS SECOND APPEAL NO. 143 OF 2023 (LA)**

**BETWEEN:**

H D LOKESHAIAH  
DEAD BY LRS.

1. SHARANAMBIKE M  
W/O LATE H D LOKESHAIAH,  
AGED ABOUT 43 YEARS.
2. MOHANKUMAR H L  
S/O LATE H D LOKESHAIAH,  
AGED ABOUT 20 YEARS,

BOTH ARE R/O  
HALANURU VILLAGE,  
KASABA HOBLI,  
TUMKURU TALUK-572 107.

...APPELLANTS

(BY SRI. M G KANTHARAJAPPA.,ADVOCATE)

**AND:**

1. SPECIAL LAND ACQUISITION OFFICER  
HEMAVATHI CANAL ZONE,  
TUMAKURU-572 101.
2. THE CHIEF ENGINEER  
HEMAVATHI CANAL ZONE,  
TUMAKURU-572 101.

...RESPONDENTS

(BY SRI. GOPALAKRISHNA SOODI., AGA FOR R1;  
SRI. K S BHEEMAIAH, ADVOCATE FOR R2)

THIS MSA IS FILED UNDER SEC.54(2) OF LAND  
ACQUISITION ACT., AGAINST THE JUDGMENT AND AWARD  
DATED 30.01.2023 PASSED IN RA NO.109/2022 ON THE FILE



OF THE VII ADDITIONAL DISTRICT JUDGE, TUMAKURU, DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT DATED 06.10.2016 PASSED IN LAC.258/2006 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND CJM, TUMAKURU, ALLOWING THE REFERENCE PETITIONS FILED UNDER SEC.18(1) OF LAND ACQUISITION ACT.

THIS APPEAL HAVING BEEN RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

### **CAV JUDGMENT**

Legal representatives of the claimant by name H.D.Lokshaiah are the appellants in this appeal, challenging the inadequacy of the compensation granted for the land in Sy.No.125/1 to the extent of 13 guntas which contained 21 coconut trees and one neem tree, situated at Halanuru village, Kasaba Hobli, Tumakuru Taluk, which was acquired for the purpose of construction of Hemavathi Canal.

2. Being aggrieved by the inadequate compensation awarded by the Land Acquisition Officer, claimant Lokshaiah filed an application under Section 18 of the Land Acquisition Act before the Reference Court for fixation of the adequate compensation in respect of the acquired land.

3. Learned Judge in the Reference Court after securing the records held an enquiry with regard to the claim of the claimant and taking into consideration the order passed in LAC No.259/2006, re-fixed the value of the acquired land at the rate of Rs.4,757/- per gunta and in respect of 21 coconut trees and one neem tree, awarded compensation at the rate of Rs.5,000/- for coconut tree and Rs.10,000/- for neem tree.

4. Pertinently, Lokshaiah did not place any oral or documentary evidence on record and all that the Reference Court has done is to re-fix the compensation at the rate of Rs.4767/- per gunta as against sum of Rs.1000/- per gunta fixed by the Land Acquisition Officer, based on the award passed in LAC No.259/2006 in respect of the same project.

5. The acquisition is on 24.01.2004 vide notification No.LAQ:SR:36/03-04.

6. Lokshaiah received the enhanced/re-fixed compensation during his life time and did not choose to file further appeal on the question of adequacy of compensation during his life time.

7. However, legal representatives of Lokshaiah filed a belated appeal before the First Appellate Court which was numbered as R.A.No.109/2022.

8. Pertinently award passed by the Reference Court in LAC No.258/2006 is on 6<sup>th</sup> October 2016.

9. The learned Judge in the First Appellate Court after notifying the Special Land Acquisition Officer and the Chief Engineer of Hemavathi Canal Zone, held an enquiry with regard to the condonation of delay of more than five years in filing the appeal that too by legal representatives of Lokshaiah – original claimant.

10. In the enquiry, the appellant No.1 Smt. Sharanambike M, who is the wife of Lokshaiah got examined herself as A.W.1 and filed an application along with affidavit.

11. On her behalf two documents were placed on record which were marked as Exs.A.1 and A.2.On behalf of the respondent there was no contra evidence either oral or documentary placed on record.

12. Learned Judge in the First Appellate Court has raised the following points:

*"1. Whether appellants have made out grounds to condone the delay in preferring this appeal?*

*2. Whether the impugned judgment and award calls for any interference from this Court"*

13. After so considering the relevant oral and documentary evidence on record, learned Judge in the First Appellate Court in paragraphs 15 to 18 of its judgment has discussed the contents of the affidavit which were contrary to the factual aspects involved in the case, which reads as under:

*"15. It is worthy to note that, along with Appeal Memorandum, appellants have filed an application under Section 5 of Limitation Act, seeking to condone delay of 6 years in filing the appeal. In the affidavit annexed to the I.A., the deponent has contended that, **"I have filed a reference petition against the respondent for enhancement of compensation. After issuance of summons by the Hon'ble Court below, I came on record and adduced the oral and documentary evidence before the trial Court and the Hon'ble trial Court allowed the reference petition on 6/10/2016 in LAC No.258/2006"**.*

*16. Thus on careful perusal of the aforesaid contents of affidavit, without any kind of hesitation it can be held that the deponent has pleaded false and untrue facts by suppressing the true and real facts. Because, as said above, coupled with the*

*facts pleaded in the Appeal Memorandum, it is the deceased Lokshaiah, who has filed the reference petition and given evidence before the reference Court. But quite contrary to these true facts, the appellant No.1 has pleaded false things in her affidavit by contending that as if she has filed reference petition and given evidence before the reference Court at one breath and at another breath she again contended that she has come on record without pleading when her husband died and when she has come on record etc., However in the reference Court records absolutely nothing is forthcoming about death of Lokshaiah and his LRs are brought on record.*

*17. It is worthy to note that, legal representatives of a party to the proceedings before the Court are entitled to come on record only when the original party to the proceeding is dies during pendency of the petition. But here the appellant has falsely deposed in the affidavit that even prior to the death of her husband she has come on record and given evidence before the reference Court. It is evident from the death certificate produced before this Court at Ex.P1 wherein it appears that the original claimant – Lokshaiah was died on 20/8/2021. Admittedly, the impugned judgment was passed by the reference Court on 6/10/2016. Therefore, without any kind of hesitation it can be held that, as on the date of judgment the original claimant – Lokshaiah was very much alive. Not only that, he was also very much alive till his death*

*in the year 2021. In view of these admitted facts, the averments made in the affidavit annexed to the I.A. by the present appellant No.1 are conclusively proved false.*

*18. Quite contrary to the contents of affidavit annexed to I.A. filed under Section 5 of Limitation Act, the first appellant has narrated the aforesaid true facts in her chief affidavit filed before the Court during enquiry. As a result of which, a serious question is arised in the mind of the Court whether the said application is maintainable under law. Because, as per Ex.P1 the original claimant was died on 20/8/2021 and the present appeal was filed on 28/3/2022 ie., after lapse of 5 months. At the same time, the question which would required to be answered is why the deceased claimant has not preferred the appeal during his lifetime even though he was alive for more than 5 years from the date of judgment. Under these circumstances the answer would be that he was very much satisfied with the enhancement made by the reference Court and therefore he was not filed any appeal against the impugned judgment. Otherwise, absolutely there is no occasion or any kind of impediment for him to assail the impugned judgment and award. Arguments canvassed by the learned counsel for R1 on this respect cannot be simply brushed aside.”*

14. Learned Judge thereafter also discussed yet another aspect i.e., without seeking the leave of the Court by filing necessary application, directly filing the appeal by legal

representative of deceased Lokshaiah is not maintainable, and rejected the appeal by refusing to condone the huge delay of more than five years.

15. Being aggrieved by the same, the appellants are before this Court in this Second Appeal on the following grounds:

- *"The Court below has erred in rejecting the I.A. filed for condonation of delay in filing the appeal for the reason that the appellants have filed affidavit, pleading false and untrue facts by suppressing the real facts without noticing that whatever the appellant has pleaded in the affidavit is only with reference to the claimant not by herself.*
- *The court below was failed to notice and appreciate that the original claimant is the husband of the first appellant and father of the second appellant died on 20-8-21. The judgment was passed in LAC 258/06 on 6-10-2016 and the appeal RA No.109/22 is filed by the LRS of the claimant i.e., by the present appellants on 29-3-22.*
- *Further the court below was erred in not appreciating that the deceased claimant and the appellants are agriculturists, coming from rural back ground and not well acquainted with the court proceedings are small piece of lands are the only assets and sources of lively hood. For*

*these reasons the deceased claimants and the appellants did not prefer the appeal in time.*

- *The court below has erred in rejecting the I.A. for condonation of delay, as the original claimant was not preferred any appeal in time so also the present appellants. The appellants have preferred the appeal after knowing that the persons similarly situated like appellants have received higher compensation, as such on I.A. was filed for condoning the delay, the delay in filing the application is bonafide and unintentional one and is required to be condoned. Even assuming there is some lapse on the part of the appellants in following the procedure to file appeal and I.A. that itself is no ground to reject the application, due to illiteracy lack of knowledge and financial problems. The delay in filing the I.A. can be compensated by denying the interest for the said period, though it is bonafide.*
- *Further the court below has erred in not noticing and appreciating that the compensation of Rs.1,00,000/- per gunta is awarded by the court in LAC 258/2006 to the acquisition of the land situated in the same village, acquired for the same purpose, under the same notification.*
- *Similar compensation of Rs.1,00,000/- per gunta is awarded in LAC 259/20067 dated: 12-2-16 in the appeal RA No.63/2022 dated: 22-6-22 under similar circumstances, wherein there is delay of 6 years in filing the appeal.*

- *The court below has erred in dismissing the appeal for the reason that there is delay of 6 years in preferring the appeal and rejected the application. The court below in deciding the matter in RA 63/22 has relied upon number of decisions regarding delay and in granting compensation to the claimants. Similar yardstick to be adopted to condone the delay and in granting compensation which is just and proper under the facts and circumstances of the case."*

16. Initially the appellants engaged the services of learned counsel Sri Patel D. Karegowda. Subsequently, by order dated 18.08.2025, Sri Patel D. Karegowda was permitted to retire from the case and learned counsel Sri M.G. Kantharajappa has represented the appellants.

17. Sri M.G. Kantharajappa apart from addressing the oral arguments has also filed written arguments.

18. Paragraphs 5 to 7 of the written submission are culled out hereunder for ready reference which reads as under:

*"5. It is submitted that the appellants filed application under Order XXXXI Rule 27 of Code of Civil Procedure along with documents before the 1st appellate court by producing the documents in order to show that the respondents have satisfied the awards in which the land value under the same Notification and in the same village was fixed at the*

*rate of Rs.1,00,000/- per gunta. The 1st appellate court without considering the said application and the documents produced along with said application was please to dismiss the appeal.*

*6. It is submitted that the 1st appellate court while dismissing the appeal was please to records the finding that the appellants not filed necessary application seeking 4 permission to file appeal as Lrs of deceased Lokshaiah. But on the other hand the 1st appellate court without such application proceeded to record the evidence and ultimately, dismiss the appeal by relying on mere technicalities. The 1st appellate court ought to have granted an opportunity to cure the technical defects.*

*7. It is submitted that bare reading of Section 28-A and spirit contained therein higher compensation can be allowed for others whose land was acquired under same notification. The appellant court ought to have considered the uniformity and consistency while passing the impugned judgment."*

19. As could be seen from the above, learned counsel for the appellants placed on record, the decisions which are in support of their contentions and gist thereof is culled out in paragraph 8 of the written arguments which reads as under:

**"1. Laxminarain and Another V/s. State of Haryana and Others (SLP (C) No.2832/2020 Decided on 23.04.2025) By relaying on the several**

*other judgments of the Hon'ble Apex Court was please to condoned the delay of 4908 days by holding that "The delay is not a reason to deny the land losers their compensation, which is just, fair and reasonable for the land they have lost".*

**2. Saibanna Since Deceased by Lrs. V/s. The Assistant Commissioner and Land Acquisition Officer, Gulbarga.** (1995 SCC Online Kar 19: (1995) 2 Kant LJ 54)

*"If a judicial authority, even at a subsequent point of time, has refixed the quantum of compensation and enhanced it, it is only just and fair that all other similarly situated persons should be beneficiaries of that order- Limitation Act itself makes provision for a court to distinguish all cases wherever grounds exist and to make an exception in appropriate ones"*

**3. Waheed Patel, since deceased by his Lrs V/s. The Chief Engineer, Gulbarga and Others.** (ILR 2017 KAR 3368)

*"Courts to adopt liberal approach in the matter of condonation of delay in land acquisition matters- Equities can be balanced by denying the interest for the period of delay".*

**4. State of Karnataka by Special Land Acquisition Officer and Others V/s. Mallappa and Others** (ILR 2003 KAR 2336)

*"The similar nature of lands of adjoining villages acquired under the same Notification and for the same purpose Uniform rate of compensation for all the acquired lands which are similarly situated to the adjoining villages cannot be faulted"*

**5. K.Subbarayudu and Others V/s. Special Deputy Collector (Land Acquisition) (2017) 12SCC 840**

*It was held "In case of acquisition of lands of agriculturists, court ought to adopt a pragmatic approach to award just and reasonable compensation and not a pedantic approach. Since appellant claimants are agriculturists given whose lands were acquired and when similarly situated agriculturists were given a higher rate of compensation. There is no reason to decline same to appellants. Merely on ground of delay such benefit cannot be denied to appellants. Interest of justice would be served by declining interest on enhanced compensation and also on solatium and other statutory benefits for period of delay". Para 8 to 11, 13 and 18.*

**6. Narendra and Others V/s. State of Uttar Pradesh and Others (2017) 9 SCC 426**

*"from a bare reading of Section 28-A and spirit contained therein, in absence of exemplars and other evidence, higher compensation can be allowed for others whose land was acquired under same notification" "In order to ensure that landowners whose land was taken away by same notification should become beneficiary thereof-not only it is an aspect of good governance, failing to do so would also amount to discrimination by giving different treatment to persons though identically situated On technical grounds"*

20. Per contra, Sri Gopalakrishna Soodi, learned Additional Government Advocate for respondent No.1 and Sri K.S. Bheemaiah, learned counsel for respondent No.2 vehemently opposed the appeal grounds and maintained that the dismissal of the appeal by the First Appellate Court both on the maintainability as well as non condonation of delay is just and proper in the attendant facts and circumstances of the case.

21. They also contended that principles enumerated under Section 28A of the Land Acquisition Act, cannot be pressed into service by the appellants on account of the fact that Lokshaiah did not choose to file any appeal and withdrew the amount of compensation adjudged by the Reference Court, taking note of the compensation awarded in LAC No.259/2006. Further, even though Lokshaiah did not place independent oral or documentary evidence to seek for enhanced compensation in respect of the acquired land and thus, sought for dismissal of the appeal.

22. In the light of the rival contentions of the parties, this Court bestowed its best attention to the material on record.

23. On such consideration of the material on record, following are the admitted facts:

- *The land of Lokshaiah-claimant to the extent of 13 guntas in Sy.No.125/1 in Halanuru village, was acquired for the construction of Hemavathi Canal vide notification No.LAQ:SR:36/03-04, dated 24.01.2004.*
- *Land Acquisition Officer fixed the compensation at the rate of Rs.1000/- per gunta.*
- *Not satisfied with the grant of compensation, Lokshaiah filed reference under Section 18 of the Land Acquisition Act in LAC No.258/2006.*
- *Lokshaiah did not place any independent evidence seeking enhancement of compensation except relying on the judgment of the Reference Court in LAC No.259/2006.*
- *Reference Court based on the judgement of the Reference Court in LAC No.259/2006 allowed the reference application by judgment dated 06.10.2016 and re-determined the compensation at the rate of Rs.4767/- per gunta.*
- *Amount of compensation determined by the Reference Court in LAC No.258/2006 was withdrawn by Lokshaiah in entirety and did not choose to file any appeal in his lifetime.*
- *Long after the redetermination of the compensation amount by the Reference Court, after death of Lokshaiah, appellants herein being the wife and son have filed a belated appeal before the First Appellate Court in R.A.No.109/2022.*

- *Application seeking condonation of huge delay of more than five years is opposed by the respondents.*
- *Enquiry was held by the First Appellate Court and delay was not condoned and appeal was dismissed.*

24. Dismissal of the appeal only on the ground of delay is called in question in the case on hand by the appellants by contending that approach of the First Appellate Court is pedantic in nature.

25. It is also contended that normally in all such matters, delay would be condoned by the First Appellate Court on the condition that the claimant would not be entitled for the interest for the enhanced compensation for the delay and thus, resulted in miscarriage of justice and sought for allowing the appeal.

26. Per contra, Sri K.S. Bheemaiah, learned counsel appearing for respondent No.2/beneficiary with vehemence contended that when once Lokshaiah has received the compensation amount, legal representatives of Lokshaiah after more than five years of the redetermination of the compensation by the Reference Court re-agitating the issue only on the ground that in a subsequent land acquisition case the First Appellate Court has enhanced the compensation and

therefore, claimants being the legal representatives of Lokshaiah are also entitled for the enhanced compensation cannot be countenanced in law.

27. In the light of the above admitted factual aspects, this Court is now required to consider whether dismissal of the appeal on the ground of limitation is just and proper.

28. As referred to supra, First Appellate Court has assigned reasons for dismissal of the application seeking condonation of huge delay of more than five years.

29. In the affidavit filed in support of application seeking condonation of delay, averments are made by the legal representatives of deceased Lokshaiah that they have placed evidence on record.

30. Admittedly, Lokshaiah did not choose to place any other material evidence other than placing the judgment passed in LAC No.59/2009. Lokshaiah received the entire compensation amount as redetermined by the Reference Court based on Ex.P.5.As such, having withdrawn the entire compensation by Lokshaiah, *lis* attained finality.

31. Can a litigant be allowed to re-agitate the inadequacy of compensation after the entire compensation

amount is received and *lis* has come to finality is a moot question in not only the present case but in similar cases as well.

32. In the case on hand, the notification is dated 24.01.2004 and it is for the construction of Hemavathi canal. Land Acquisition Officer before acquiring the land and before issuing the preliminary notification under Section 4(1) of the Land Acquisition Act, would have taken into consideration the quantity of the land required for the construction for the project in different survey numbers of different villages and would have prepared a draft award based on the land value and other relevant factors.

33. After entertaining the objections from the landowners and disposing of such objections judicially, final notification came to be issued. Award also came to be passed based on the land value and other required parameters.

34. Scheme of the Land Acquisition Act carves out a right in the land loser to approach the Civil Court under Section 18 of the Land Acquisition Act, seeking enhancement of the compensation in respect of the acquired land.

35. Needless to emphasize that there is a time limit for filing such a reference application and after the reference application is registered by the Civil Court, parties would be notified and an enquiry would be conducted, enquiring into all relevant parameters in fixing the '**Just Compensation**' for the acquired land.

36. While so determining, four important methods have been followed by the Courts, they are:

- *Sale sampler method,*
- *Capitalization method,*
- *Determination of compensation based on expert opinion,*
- *Award passed by the Courts in respect of same/similar notification, same/similar project and the year of notification.*

37. Fixing the compensation for the land losers in respect of the same project in uniformity for all land losers is no longer *res integra*.

38. The Hon'ble Apex Court as well as this Court have recognized ordering the same quantum of compensation in the following decisions in respect of land losers who are similarly

placed in the same notification and in the same village or adjacent village and for the same project:

- (i) ***K.Manjegowda etc., vs. The Special Land Acquisition Officer & others, Civil Appeal No.6047-6048/2024 arising from SLP (Civil) No.5592-5593/2024,***
- (ii) ***Abdul Khadar and others vs. The Assistant Commissioner and Land Acquisition Officer and others, reported in (2015)2 KCCR 1943,***
- (iii) ***The Special Land Acquisition Officer vs. Fakirappa Mugubasappa and others, reported in ILR 2004 KAR 2371.***

39. Thus, the Land Acquisition Officer has failed to assess the '**just compensation**' for the acquired land, Lokshaiah approaching the Reference Court under Section 18 of the Land Acquisition Act by placing reliance of judgment in LAC No.259/2006 is just and proper.

40. Likewise the learned Judge in the Reference Court awarding the compensation, following the quantum of compensation assessed in LAC No.259/2006 cannot be faulted with even though Lokshaiah did not establish before the Court about the fertility of the land by placing cogent and convincing

evidence on record, nor it was the case of Lokshaiah for seeking enhanced compensation by 'sale sampler' method.

41. Thus, re-determination of the quantum of compensation by the First Appellate Court in a sum of Rs.4,756/- per gunta in LAC No.258/2006 filed by Lokshaiah is thus, just and proper and cannot be faulted with.

42. Having realised that the amount of compensation re-determined by the Reference Court is beneficial to Lokshaiah, he did not choose to file any appeal on the ground of inadequacy of the compensation before the First Appellate Court during his lifetime, so also the respondents who are the Land Acquisition Officer and beneficiary did not appeal before the First Appellate Court, challenging the redetermination of the compensation amount at the rate of Rs.4,767/- per gunta.

43. The quantum of compensation re-determined by the Reference Court was also withdrawn by Lokshaiah till the last paise. Thus, in ordinary course applying doctrine of finality the *lis* attained finality.

44. Doctrine of finality is based on Henderson doctrine which is a legal principle originating from the English case **Henderson v. Henderson** of the year 1843.

45. Said principle prohibits the parties from relitigating the issues that were settled in a given case except in exceptional circumstances. This principle is to the effect that even if a later Court decision takes a contrary view on a legal principle, it will not affect a party's rights if their case was decided by a final judgment that was not appealed. This principle also ensures that disputes come to a definite end, rather than allowing parties to re-litigate the same issues indefinitely.

46. In a recent decision Hon'ble Apex Court in the case of ***Satish Chander Sharma vs. State of H.P., 2025 SCC OnLine SC 792*** it is held as under:

**"30.** Therefore, it is crystal clear that the present writ petition is thoroughly misconceived and is liable to be dismissed. **However, before parting with the record, we would like to emphasize and reiterate the principle of finality of an adjudication process. Finality of a *lis* is a core facet of a sound judicial system. Litigation which had concluded or had reached finality cannot be reopened.** A litigant who is aggrieved by a decision rendered by this Court in a special leave petition or in a civil appeal arising therefrom can seek its review by invoking the review jurisdiction and thereafter through a curative petition. But such a decision cannot be assailed in a writ proceeding under Article 32 of the Constitution of India.

**If this is permitted, then there will be no finality and no end to litigation. There will be chaos in the administration of justice.”**

47. Again in the case of ***Amruddin Ansari vs. Afajal Ali, 2025 SCC OnLine SC 912*** Hon’ble Supreme Court while considering the doctrine of finality held as under:

**“23.** The principle of *res judicata* is based on the common law maxim “*nemo debet bis vexari pro una et eadem causa*”, which means that no man shall be vexed twice over the same cause of action. It is a **doctrine applied to give finality to a lis. According to this doctrine, an issue or a point once decided and attends finality, should not be allowed to be reopened and re-agitated in a subsequent suit. In other words, if an issue involved in a suit is finally adjudicated by a Court of competent jurisdiction, the same issue in a subsequent suit cannot be allowed to be re-agitated.** It is, therefore, clear that for the application of principle of *res judicata*, there must be an adjudication of an issue in a suit by a court of competent jurisdiction.”

48. In the back ground of above settled principles, when the material on record is analysed, when the *lis* had attained finality during the life time of Lokshaiah, much after his death, legal representatives of Lokshaiah have filed a belated appeal before the First Appellate Court claiming

enhanced compensation based on the redetermination of the compensation in a subsequent proceeding.

49. Thus, pertinent aspect that is to be noted is to prefer an appeal, seeking further enhancement of the compensation, there was no *lis* pending, as the re-determined quantum of compensation had already been drawn by the claimant till the last penny.

50. If belated appeals are allowed to be entertained even after *lis* has come to an end, there would be no end to any litigation seeking '**Just compensation**' in case of land acquisition matters.

51. No doubt, in such appeals, the Courts have consistently adopted a standard method of denying the interest on the delayed period while entertaining the appeals, Courts have also taken into consideration the ground of parity while awarding the enhanced compensation where *lis* is still pending.

52. Learned counsel for the appellants also contended that very same learned Judge has allowed similar appeals and granted enhanced compensation to the litigants/claimants and thus dismissing the present appeal by way of impugned order has resulted not only grave injustice to the legal

representatives of Lokeshaiah, but also up against the principle of parity.

53. However, to substantiate said aspect of the matter, no other material is placed on record inasmuch as whether the First Appellate Court has granted enhanced compensation even where the *lis* had attained finality.

54. The Courts are expected to render the decision based on the material facts in a given case even while adopting the principle of parity.

55. As could be seen from the material on record including the Trial Court Records and the First Appellate Court Records, no such material facts are pleaded nor any documentary evidence placed on record by the legal representatives of Lokeshaiah to substantiate that they are also entitled to the compensation as is determined in LAC No.259/2006 on the ground of parity.

56. Further, the affidavit filed by the legal representatives of the claimant in the case on hand as is culled out in the judgment of the First Appellate Court shows that it was a 'copy - paste' affidavit and explanation offered by the counsel for the appellants is that it is the mistake of the

Advocate who represented the appellants before the first appellate court.

57. Pertinently, Lokeshaiyah did not place any oral or documentary evidence on record before the Reference Court to substantiate claim of enhanced compensation. But, the Reference Court, considered the effect of the award passed in LAC No.259/2006 enhanced the compensation for the land which has been lost in the acquisition proceedings by applying the principle of parity *suo moto*.

58. When such is the undisputed factual aspect, it should not lie in the mouth of the counsel for appellant to seek for further enhancement on the ground that First Appellate Court did not entertain belated appeal.

59. Thus, the learned Judge in the First Appellate Court though has not stated in so many words, dismissal of the appeal on the ground of huge delay is justified in the attendant facts and circumstances of the case.

60. Having said thus, principles of law governing the condonation of delay has been rightly appreciated by the learned Judge in the First Appellate Court while dismissing the

application filed by the appellants seeking condonation of huge delay of more than five years.

61. Principles of law enunciated in the case of Laxminaraian, Saibanna, Waheed Patel, Mallappa, Subbarayudu, Narendra referred to supra are clearly distinguishable in the case on hand, inasmuch as in those cases, the *lis* had not attained the finality.

62. On the contrary, the principles of law enunciated by the Hon'ble Apex Court in the case of ***Basawaraj vs. Special Land Acquisition Officer***, reported in **(2013) 14 SCC 81**, would be squarely applicable to the case on hand. The Relevant Paragraphs of the said decision read as under:

*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. [...]*

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**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.”*

After reserving the matter for judgment, Hon’ble Apex Court had an occasion to consider as to how an application seeking condonation of huge delay in a given case needs to be considered in the case of **SHIVAMMA (dead) by LRs V. KARNATAKA HOUSING BOARD**, reported in **2025 SCC OnLine SC 1969**, (decision dated 12.09.2025). Relevant Paragraphs said decision reads as under:

**40.** *As such, under Section 5 of the Limitation Act, for the purpose of seeking condonation of delay in filing of an appeal or application, as the case may be, beyond the stipulated period of limitation, the delay in the filing has to be explained by demonstrating the existence of a "sufficient cause" that resulted in such delay for both the prescribed period of limitation as-well as the period after the expiry of limitation, up to actual date of filing of such appeal or application, as the case may be, or to put it simply, explanation has to be given for the entire duration from the date when the clock of limitation began to tick, up until the date of actual filing, for seeking condonation of delay by recourse to Section 5 of the Limitation Act.*

**49.** *What can be discerned from the above discussion is that the meaning of the expression, "within such period" cannot possibly be confined or restricted to mean any one extreme i.e., it can neither be construed to mean only the prescribed period of limitation nor to denote only that period beyond the prescribed limitation, sans the use of the phrase "during such period" or "for such period", respectively, by the legislature.*

**50.** *Thus, the only natural corollary that could be supplied to the aforesaid is that, the phrase "within such period" must then necessarily be construed to refer and encompass both; the original prescribed period of limitation as-well as the period subsequent to its expiry, extending up to actual date of filing of the appeal or application, as the case may be, i.e., the entire continuum commencing from the point at which the*

*limitation period first began to run, until the eventual filing of the appeal or application, as the case may be. An interpretation, which is also naturally apparent and forthcoming, when the phrase "within such period" is read and understood in conjunction with the expressions "after the prescribed period" and "for not preferring the appeal or making the application", as contained in the said provision.*

**65.** *The above expounded fundamental pillars of the law on limitation, namely, (i) that the sword of prosecution ought not to be hanging over an individual for an indeterminate period and (ii) those who have been lethargic in safeguarding their interests should not expect the law to come to their rescue, are reflected in Section 3 of the Limitation Act, more particularly subsection (1) inasmuch as it enjoins a duty upon the courts to dismiss any suit instituted, appeal preferred and application made, after the period of limitation prescribed therefore by Schedule I irrespective of the fact whether the opponent had set up the plea of limitation or not. It is the duty of the court not to proceed with the application if it is made beyond the period of limitation prescribed.*

**112.** *To say, that the purpose for demonstrating "sufficient cause" is to exclude only that extent of period which would once again put the litigant back into the last day on which, he could have filed the appeal or application, would, in our opinion, gravely misconstrue the entire mechanism of Section 5 of the Limitation Act. Thus, the expression "within such period" for this reason also cannot be possibly construed to mean the period*

*from the last day of expiry of the limitation, till the actual date of filing of appeal or the application, as understood by Rewa Coal Fields (supra). The phrase "extension" used in Section 5 of the Limitation Act is not a misnomer.*

**113.** *It is for this reason that the decisions of this Court in Ajit Singh Thakur (supra) and Ramkumar Choudhary (supra) held that "sufficient cause" for the delay in filing of an appeal or application, as the case may be, has to be established by some event or circumstance that had arisen before the limitation expired and that the party seeking condonation has to explain the delay the entire continuum commencing from the point at which the limitation period first began to run, until the eventual filing of the appeal or application, as the case may be.*

**121.** *This Court in Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy, (2013) 12 SCC 649, after examining a plethora of decisions on what is meant by "sufficient cause", summarized its principles as under:—*

*"21. From the aforesaid authorities the principles that can broadly be culled out are:*

*21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.*

*21.2. (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and*

*purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.*

*21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.*

*21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.*

*21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.*

*21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.*

*21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.*

*21.8. (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.*

*21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to*

*weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.*

*21.10. (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.*

*21.11. (xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.*

*21.12. (xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.*

*21.13. (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.*

*22. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:*

*22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.*

*22.2. (b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.*

22.3. (c) *Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.*

22.4. (d) *The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.*

**122.** *The exceptional provision of condonation of delay on grounds of "sufficient cause" is couched as a manifestation of substantive justice. This Court in Pathapati Subba Reddy (Died) by L.Rs. v. Special Deputy Collector (LA), 2024 SCC OnLine SC 513, summarized the principles governing the exceptions imagined under "sufficient cause" vis-à-vis substantive justice as under:—*

*"26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:*

*(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*

*(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*

*(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be*

*construed in a strict sense whereas Section 5 has to be construed liberally;*

*(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*

*(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;*

*(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;*

*(vii) Merits of the case are not required to be considered in condoning the delay; and*

*(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision."*

*(Emphasis supplied)*

**134.** *Thus, in exercising discretion under Section 5 of the Limitation Act the courts should adopt a pragmatic approach. A distinction must be made between a case where the delay is inordinate and a case where the*

*delay is of a few days. Whereas in the former case the consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach but in the latter case, no such consideration may arise and such a case deserves a liberal approach. No hard-and-fast rule can be laid down in this regard. The court has to exercise the discretion on the facts of each case keeping in mind that in construing the expression "sufficient cause", the principle of advancing substantial justice is of prime importance.*

**141.** *Test of "sufficient cause" cannot be substituted by an examination of the merits of the case. Condonation of delay is a matter of discretion based on explanation for the delay, not on the prospects of success in the case. If merits are considered, a litigant with a stronger case may be favoured with condonation despite negligence, while a weaker case may be rejected even if sufficient cause is made out. This would lead to an inequitable and inconsistent application of the law, undermining the uniform standard that the doctrine of limitation is designed to maintain.*

**142.** *Another practical reason why merits must not be considered at the stage of delay condonation is that it risks prejudicing the mind of the court against one party even before the matter is substantively heard. By glancing into merits prematurely, the court may inadvertently form a view that colours the fairness of the subsequent adjudication. The judicial discipline required at this stage demands that only the cause for delay be scrutinized, and nothing more. This ensures*

*that the ultimate adjudication of rights occurs in a neutral and unprejudiced setting.*

63. Applying the above principles of law to the case on hand it is crystal clear that *lis* having attained finality during the life time of Lokshaiah, the bald reasons ( that too copy paste reasons) assigned by the legal representatives of Lokshaiah seeking condonation of delay of more than five years in filing the appeal before the first appellate court could, at any stretch of imagination, have been condoned.

64. Thus dismissal of the application seeking condonation of delay and consequently dismissing the appeal is just and proper in the attendant facts and circumstances of the case on hand which needs no interference by this court having regard to the scope of the appeal.

65. Test of parity should necessarily fail in the case on hand in view of foregoing discussion.

66. Counsel for the respondents however, emphatically contended that such unscrupulous litigants must not be allowed to go scot free and a case for perjury shall be initiated for filing a false affidavit before the First Appellate Court.

67. However, being unable to face such an argument on the part of the respondent, earlier counsel for the appellant retired from the case and Sri M.G. Kantharajappa has filed power for the appellants and filed detailed written arguments.

68. No doubt, *per se* on record, the legal representatives of Lokshaiah (appellants) have stated that it is the mistake of the Advocate. But, Affidavit of the Advocate who represented the appellants before the First Appellate Court is not filed.

69. But, noting the fact that appellants being the rustic villagers and with a fond hope that they would also get enhanced compensation, may be on the ill-advice of the villagers might have approached the First Appellate Court with a belated appeal.

70. Therefore, though there is a *prima facie* false affidavit is sought to be placed before the Court for getting the enhanced compensation, this Court is of the considered opinion that extreme action of directing a case for perjury to be initiated against the claimants/appellants in the case on hand may not be necessary, giving the benefit of drafting of the

affidavit by counsel for the appellants who represented them before the First Appellate Court.

71. However, the conduct of the appellants in further agitating the matter before this Court after being appraised of the flaw in their case cannot be allowed to go scot free.

72. Such unscrupulous litigants must be therefore saddled with suitable costs to discourage such unscrupulous litigations.

73. In this regard, this Court is of the considered opinion that imposing sum of Rs.25,000/- as costs to the appellants while dismissing the appeal would serve the ends of justice.

74. Accordingly, the following:

**ORDER**

Miscellaneous Second Appeal is dismissed with costs of Rs.25,000/-.

**Sd/-  
(V SRISHANANDA)  
JUDGE**

MR