

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT GULBARGA

DATED THIS THE 24th DAY OF AUGUST 2010

B E F O R E

THE HON'BLE MR.JUSTICE ANAND BYRAREDDY

R.S.A.NO. 2813/2007

A/W.

I.A-1/2007

BETWEEN:

Vidyadhar
S/o Revanna Siddappa Nuchi
R/o Shahpeth Galli
BIJAPUR -586101.

... Appellant
(By Sri. Sanjeev Kumar C. Patil. Advocate)

And:

1. State of Karnataka,
The Deputy Commissioner,
BIJAPUR -586101.
2. The Deputy Director
of Public Instruction,
BIJAPUR -586101.



3. The Principal,
S. S. High School,
BIJAPUR -586101.

... Respondents

(By Sri. Mallikarjun Sahukar, HCGP., for R-1 & R-2)

This RSA filed under section-100 of the Code of Civil Procedure against the Judgement & decree dated. 21.02.2005 passed in R.A.No. 50/2001 on the file of the I Addl. Civil Judge (Sr.Dn.) Bijapur, allowing the appeal and setting aside the judgement and decree dated 2.11.1999 passed in O.S. No.221/99 on the file of the Prl. Civil Judge (Sr.Dn.) Bijapur.

This appeal coming on for further Orders, this day, the court delivered the following:-

JUDGMENT

The appeal coming on for orders is considered for final disposal by consent of counsel on both sides, having regard to the facts and circumstances of the case.

2. The Plaintiff is in appeal. It was a suit for declaration that the appellant belongs to a particular caste. The dates in relation to the declaration had



caused cause of action which is not apparent but it is only by vague reasons inserted in the affidavit and the age of the appellant disclosed therein that it can be discerned that the suit has been filed for declaration, that the school leaving certificate indicated that the appellant belonging to a particular caste and it is that, which is sought to be corrected by seeking a declaration.

3. The trial court having decreed the suit in favour of the appellant, the Lower Appellate Court reversed the same. Challenging the same, the present appeal is filed after a delay of 905 days. The affidavit filed in support of the application seeking condonation of delay does not seek to explain the delay with any convincing reasons. A suit for declaration needs to be filed within a period of three years. Hence, the delay of 905 days in filing the appeal, for which, the time prescribed is 90 days is, therefore, unacceptable. The casual reasons assigned in the affidavit that the appellant



was not in a position to raise the funds to prefer this appeal and that there was 'some' delay is therefore, a casual approach of the appellant in seeking that the delay be condoned by this court. There is no justifiable reason for condonation of delay. Accordingly, the application (IA-1/2007) is rejected. Consequently, the appeal fails and it rejected.

Sd/-
Judge

VR