



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 8090 OF 2026 (GM-CPC)

BETWEEN:

1. SMT. T. GAYATHRI
W/O MR. T. RIPUNJAYA REDDY
AGED ABOUT 56 YEARS,
2. T. SAI YOJANA
D/O T RIPUNJAYA REDDY
AGED ABOUT 25 YEARS,

BOTH ARE R/AT FLAT NO. 204,
SILVER OAK GARDEN APARTMENT,
NO. 21, VITTAL MALLYA ROAD,
BENGALURU-560 001.

...PETITIONERS

(BY SRI. SUBRAMANYA R, ADVOCATE FOR
SRI. LOKESH C., ADVOCATE AND
SMT. SANGEETHA MANJUNATH, ADVOCATE)

AND:

Digitally signed by
DHANALAKSHMI
MURTHY

Location: HIGH
COURT OF
KARNATAKA

SMT. PRABHIJIT DHARIWAL
AGED ABOUT 65 YEARS
W/O LATE JAGJIT SINGH DHARIWAL
RESIDING AT NO.1103, SILVER OAKS
GREEN VALLEY, WANOWARI,
PUNE-411 040.

...RESPONDENT

(BY SRI. SAI SHAKTI., ADVOCATE FOR C/RESPONDENT)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE
CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS IN
O.S.NO.2284/2025 PENDING ON THE FILE OF HONBLE VII ADDL.
CITY CIVIL AND SESSIONS JUDGE BENGALURU C/C VII ADDL
DISTRICT AND SESSIONS JUDGE, BENGALURU (CCH 19).



THIS PETITION, COMING ON FOR PRELIMINARY HEARING,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

This writ petition is filed by defendant Nos. 1 and 2 under Articles 226 and 227 of the Constitution of India, challenging the order dated 02.03.2026 passed on IA No. 2 in O.S.No.2284/2025 by the VII Additional City Civil and Sessions Judge, Bengaluru, whereby the application filed by the petitioners/defendants seeking permission to file the written statement has been rejected on the ground that it was filed beyond 120 days from the date of service of summons, as the right of the defendants to file written statement stands fortified upon expiry of the said period as per the Karnataka Amendment Act No. 40/2025.

2. The respondent/plaintiff has filed a suit in O.S. No. 2284/2025 for ejectment. Upon service of summons, and at the stage of cross-examination of PW1, the petitioners/defendants filed an application, IA No.2, seeking permission to file the written statement. On the ground



that there was a delay in filing the written statement, the trial court dismissed the application on the ground that in view of Karnataka Act No. 40/2025, the defendants have to file the written statement within 30 days from the date of service of summons. If it is filed beyond 30 days, and if the Court is satisfied with the reasons, the Court may permit the defendants to file the written statement within a period of 120 days from the date of service of summons. The relevant provisions of Karnataka Act No.40/2025 are extracted below:

"4. Amendment of the First Schedule.- In the First Schedule to the Principal Act,-

(i) in the Order V, in rule 1, in sub-rule (1), after the second proviso, the following proviso shall be inserted, namely:-

"Provided also that where the defendant fails to file the Written Statement within the said period of thirty days, he shall be allowed to file the Written Statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems



fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the Written Statement and the Court shall not allow the Written Statement to be taken on record."

3. Since the application seeking permission to file the written statement was filed beyond 120 days from the date of service of summons, the trial Court rejected the same.

4. Learned counsel appearing for the petitioners/defendants submits that Karnataka Act No.40/2025 was brought into force on 05.06.2025 and that the suit was filed before the Act came into force; therefore, the same is not applicable to the case on hand, and it should operate prospectively.

5. The learned Additional Advocate General appearing for the State submits that under Order VIII of the Code of Civil Procedure, the maximum time limit of 90



days from the date of service of summons is prescribed for filing the written statement, subject to the satisfaction of the Court. The State has introduced an amendment providing that if the application is filed beyond 120 days, the right to file the written statement stands forfeited. This amendment has also obtained the assent of the President.

6. He further submits that the Code of Civil Procedure contains a provision for granting time beyond the prescribed limit if the Court is satisfied with the reasons. This amendment has to be construed as prospective.

7. Heard the learned counsel for the parties and perused the writ petition papers.

8. In this case, the respondent/plaintiff has filed a suit for ejectment. The suit was filed on 26.03.2025. As per Order VIII Rule 1 of the CPC, 30 days' time is granted for filing the written statement. If it is filed beyond 30 days, and if the Court is satisfied with the reasons, it may



permit the defendants to file the written statement within a period of 90 days from the date of service of summons. The relevant provision is extracted below:

"ORDER VIII

1. Written Statement. — The Defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:

Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons."

9. The State Government has brought an amendment—Karnataka Act No.40/2025—which was notified on 05.06.2025. Order VIII Rule 1 has been amended to provide that if the defendants fail to file the written statement within a period of 30 days, they shall be allowed to file the written statement on such date as may



be specified by the Court, for reasons to be recorded in writing, on payment of such costs as the Court deems fit. However, it shall not be later than 120 days from the date of service of summons. On the expiry of 120 days, the defendants shall forfeit the right to file the written statement. The constitutional validity of the amendment has also been challenged in some cases.

10. In the case on hand, with respect to suits that were filed before the Amendment Act came into force, and having regard to the submissions of the learned Additional Advocate General, it has to be construed that Karnataka Act No. 40/2025, in respect of Order VIII Rule 1 of the CPC, is applicable only to suits filed after 05.06.2025.

11. Accordingly, the following order is passed:

(i) The writ petition is allowed.

(ii) The order dated 02.03.2026 passed on IA No. 2 in O.S. No. 2284/2025 on the file of the VII



Additional City Civil and Sessions Judge, Bengaluru,
is quashed.

(iii) The trial Court is directed to reconsider IA No.2 filed by the petitioners/defendants in accordance with law, without reference to the Karnataka Act No. 40/2025.

(iv) The trial court is directed to dispose of the suit as expeditiously as possible, not later than one year from the date of receipt of a copy of this order, provided there is no order of stay of the said proceedings granted by any court of law.

(v) It is made clear that the observations made in this case will not affect the court deciding the constitutional validity of the Act.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE