



CNR: KAHC010183022026

NC: 2026:KHC:39337
WP No. 8447 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 8447 OF 2026 (GM-RES)

BETWEEN:

MR. SRINIVAS ADHIKESHAVLURU DALVOI
S/O LATE DK ADHIKESHAVULU NAIDU,
AGE: 51 YEARS, RESIDENT OF NO.7/21,
1ST CROSS MAIN ROAD, RMV EXTENSION,
BENGALURU-560 080.

... PETITIONER

(BY SRI. ROHAN HOSMATH, ADVOCATE)

AND:

1. M/S. ANUSHKA CONSTRUCTION PVT. LTD.,
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956 HAVING
ITS REGISTERED OFFICE AT NO.100/1,
CITI CENTRE, OPPOSITE TOWN HALL,
JC ROAD, BENGALURU-560 002,
REP. BY ITS MANAGING DIRECTOR,
MR. AVINASH AMARLAL.
2. UNION OF INDIA,
MINISTRY OF HOME AFFAIRS,
NORTH BLOCK, NEW DELHI-110 001,
REP. BY ITS SECRETARY.
3. STATE OF KARNATAKA,
DEPARTMENT OF PARLIAMENTARY AFFAIRS



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AND LEGISLATION, VIDHANA SOUDHA,
BENGALURU-560 001,
REP. BY ITS SECRETARY.

... RESPONDENTS

(BY SRI. S.R. KURUBARAHALLI, ADVOCATE FOR C/R1;
SMT. NAYANATARA B.G., ADVOCATE FOR R2;
SRI. KIRAN V. RON, AAG FOR
SRI. MOHAMMED JAFAR SHAH, AGA FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT, ORDER OR DECLARATION THAT THE PROVISIONS OF CODE OF CIVIL PROCEDURE, 1908 AS AMENDED BY THE KARNATAKA ACT NO.40/2025 THE CODE OF CIVIL PROCEDURE (KARNATAKA AMENDMENT) ACT, 2024 INSOFAR AS THE INSERTION OF THIRD PROVISIO BY AMENDMENT OF THE FIRST SCHEDULE TO ORDER V, RULE 1, IN SUB RULE (1) AFTER THE SECOND PROVISIO WHICH FORFEITS THE RIGHT TO FILE A WRITTEN STATEMENT BEYOND 120 DAYS IS UNCONSTITUTIONAL AND ULTRA VIRES THE PROVISIONS OF CODE OF CIVIL PROCEDURE, 1908 (CENTRAL ACT) AND ETC.,

THIS PETITION HAVING BEEN HEARD AND RESERVED THROUGH VC AT DHARWAD FOR ORDERS ON 10.07.2026, COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



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CAV ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

The present writ petition is filed by the defendant assailing the order passed by the learned Trial Judge rejecting I.A. No.8, an application filed seeking leave to file the written statement by applying the provisions introduced under the Code of Civil Procedure (Karnataka Amendment) Act, 2024. The legality and correctness of the said order are called in question in the present petition.

2. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents.

3. The material on record would indicate that the respondents-plaintiffs instituted a suit for permanent injunction in O.S. No.9272/2024 on 30.12.2024. During the pendency of the suit, the petitioners-defendants filed I.A. No.8 seeking permission to place their written statement on record. The learned Trial Judge, by placing reliance on the provisions introduced by the Code of Civil Procedure (Karnataka Amendment) Act, 2024, has rejected the said application. The



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correctness of the said order is the subject matter of challenge in the present writ petition.

4. The issue involved in the present petition is no longer *res integra*. This Court, while considering the constitutional validity and scope of the amendments introduced by the Code of Civil Procedure (Karnataka Amendment) Act, 2024, in W.P. No.8032/2026 c/w W.P. No.9372/2026, has read down the third proviso to Order V Rule 1, the third proviso to Order VIII Rule 1 and the proviso to Rule 10 of Order VIII of the Code of Civil Procedure, 1908. Therefore, it would be useful to extract the operative portion of the said judgment, which reads as follows:

*"(i) The writ petitions are **allowed in part**.*

(ii) The third proviso inserted to Order V Rule 1, third proviso inserted to Rule 1 of Order VIII and proviso to Rule 10 of Order VIII of the Code of Civil Procedure by Section 4 of the Karnataka Amendment Act, 2024 is read down in the manner indicated in paragraphs 131, 132, 157 and 158 of this judgment.



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(iii) Therefore the constitutional challenge to Section 4 of the Code of Civil Procedure (Karnataka Amendment) Act, 2024 is not accepted.

(iv) The expressions "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" shall not be construed as completely excluding the judicial discretion of the Civil Court in exceptionally rare cases where refusal would result in grave miscarriage of justice.

(v) It is declared that Section 158-A of the Code of Civil Procedure (Karnataka Amendment) Act, 2024 shall be construed harmoniously with the scheme of the Code of Civil Procedure and shall not be interpreted as overriding or abrogating the statutory rule-making powers of the High Court preserved under Sections 122 to 127 of the Code, the constitutional jurisdiction of this Court under Articles 225 and 227 of the Constitution, or the binding law declared by the Hon'ble Supreme Court under Article 141. To the aforesaid extent, Section 158-A stands read down.

(vi) The jurisdiction preserved by this judgment to receive a written statement beyond the prescribed period shall be exercised by all Civil Courts in the State only in strict adherence to the principles, limitations and illustrative guidelines contained in paragraph 162 of this judgment, and only upon recording reasons



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demonstrating the existence of exceptional and compelling circumstances.

*(vii) It is further declared that the provisions introduced by Section 4 of the Code of Civil Procedure (Karnataka Amendment) Act, 2024 shall operate prospectively and shall apply only to suits instituted on or after the date of commencement of the Amendment Act. Suits instituted prior thereto shall continue to be governed by the unamended provisions of the Code of Civil Procedure, in terms of the law declared by this Court in **Smt. T.Gayathri and Another v. Smt. Prabhajit Dhariwal (W.P. No.8090 of 2026).**"*

In the light of the authoritative pronouncement rendered by this Court, the impugned order cannot be sustained.

Accordingly, this Court proceeds to pass the following:

ORDER

- i. The writ petition is ***allowed in part.***
- ii. The order dated 21.02.2026 passed on I.A. No.8 in O.S. No.9272/2024 by the Learned 1st Additional City Civil and Session Judge, Bengaluru, is hereby quashed and set aside.



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iii. The learned Trial Judge shall reconsider I.A. No.8 afresh, after affording an opportunity of hearing to both parties, strictly in accordance with the directions issued by this Court in W.P. No.8032/2026 c/w W.P. No.9372/2026, extracted hereinabove.

iv. All rival contentions of the parties are kept open.

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

CA, ALB
CT:BCK
LIST NO.: 19 SL NO.: 1.2