HC-KAR

NC: 2026:KHC:39338
WP No. 8884 of 2026

CNR: KAHC010201212026

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. 8884 OF 2026 (GM-RES)

BETWEEN:

SRI RAMESH S/O YALLAPPA,
AGED ABOUT 40 YEARS,
R/AT: SUBBARAYAPPANAPALYA VILLAGE,
TAVAREKERE HOBALI,
BANGALORE SOUTH TALUK-560074.

… PETITIONER

(BY SRI. RANGANATH R., ADVOCATE)

AND:

1. SRI. H.R. NAGARAJ S/O LATE RAMEGOWDA,
AGED ABOUT 54 YEARS,
R/AT: NO.9, 5TH CROSS,
GRRRN VALLY SCHOOL OPPOSITE,
CHUNCHAGHATTA MAIN ROAD,
KONANKUNTE POST,
BENGALURU-560062.

2. THE GOVERNMENT OF KARNATAKA,
DEPARTMENT OF LAW AND PRELIMINARY AFFAIRS,
VIDHANA SOUDHA, AMBEDKAR VEEDHI,
BENGALURU-560001,
REP. BY ITS PRINCIPAL SECRETARY.

… RESPONDENTS

(BY SRI. KIRAN V. RON, AAG FOR
SRI. MOHAMMED JAFAR SHAH, AGA)

MOHANKUMAR B SHELAR
Digitally signed by MOHANKUMAR B SHELAR
Location: High Court of Karnataka, Dharwad Bench
Date: 2026.08.05 11:22:54 +05:30

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE THAT, THE IMPUGNED PROVISIONS OF CODE OF CIVIL PROCEDURE (KARNATAKA AMENDMENT) ACT, 2024 (KARNATAKA ACT NO.40 OF 2025) (AMENDING THE PROVISIONS 2025) (AMENDING THE PROVISIONS RELATING TO MANDATORY TIMELINES UNDER ORDER V AND ORDER VIII) ARE ULTRA VIRES TO THE CONSTITUTION AT (ANNEXURE-H) 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:

CAV ORDER

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

The present writ petition is filed by defendant assailing the order passed by the trial Court rejecting the petitioner's application seeking leave to file the written statement by applying the provisions introduced under the Code of Civil Procedure (Karnataka Amendment) Act, 2024.

2. This Court, in the reported judgment rendered in ***Shri Basavaraj S. S/o. late M. Siddaramaiah vs. State of Karnataka, Writ Petition No.8032 of 2026***, has authoritatively held that the third proviso to Order V Rule 1, the third proviso to Order VIII Rule 1 and the proviso to Order VIII Rule 10 of the Code of Civil Procedure, as introduced by the Karnataka Amendment Act, 2024, are required to be read down. Since the controversy involved in the present petition is squarely covered by the said judgment, this Court deems it appropriate to extract the directions issued to Trial courts and operative portion thereof, which reads as under:

"***XXI. Directions to the Trial Courts***

2. *In order to ensure uniform implementation throughout the State, the following directions are issued:*

(i) Every Trial Court shall endeavour to ensure strict adherence to the legislative timeline prescribed under amended third proviso to Order V Rule 1 and third proviso to Rule 1 of Order VIII.

(ii) Applications seeking acceptance of written statements beyond one hundred and twenty days shall be entertained only in exceptional circumstances.

(iii) The Trial Court shall record detailed reasons demonstrating why the case falls within the exceptional category.

(iv) The Trial Court shall consider whether the defendant has acted bona fide, diligently and without intention to protract the proceedings.

(v) Realistic and deterrent costs shall ordinarily accompany every order extending time.

(vi) The discretion recognised by this judgment shall not be exercised mechanically or routinely so as to dilute the legislative object underlying the Amendment Act.

(vii) The Trial Court shall remain conscious that the power preserved by this judgment is an equitable jurisdiction intended only to prevent grave injustice and not to encourage procedural indiscipline."

"***ORDER***

(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.

(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 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).****"*

3. In the present case, the trial Court has rejected the petitioner's application solely by placing reliance on the provisions introduced under the Code of Civil Procedure

(Karnataka Amendment) Act, 2024. In view of the pronouncement of this Court, whereby the amended provisions have been read down and the discretion of the Civil Court to receive a written statement in exceptional and compelling circumstances has been preserved, the impugned order cannot be sustained.

4. This Court is therefore of the view that the matter requires to be remitted to the trial Court for fresh consideration of the petitioner's application. The trial Court shall examine the application afresh in the light of the principles and directions laid down by this Court in ***Shri Basavaraj S. S/o. late M. Siddaramaiah vs. State of Karnataka*** (supra), particularly with reference to the parameters governing the exercise of judicial discretion in permitting the filing of a written statement beyond the prescribed period.

5. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The writ petition is ***allowed in part***.

(ii) The impugned order dated 25.02.2026 passed on I.A. No.III in O.S. No.320 of 2025 by the IInd Additional Civil Judge and JMFC, Magadi, is hereby quashed and set aside.

(iii) The matter is remitted to the trial Court for fresh consideration of I.A. No.III in accordance with law.

(iv) The trial Court shall reconsider the petitioner's application by adverting to and applying the law laid down by this Court in ***Shri Basavaraj S. S/o. late M. Siddaramaiah vs. State of Karnataka in Writ Petition No.8032 of 2026***, and thereafter pass appropriate orders in accordance with law.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

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LIST NO.: 19 SL NO.: 1.3