



CNR: KAHC010210242025

NC: 2026:KHC:36964
WP No. 9410 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 9410 OF 2025 (GM-CPC)

BETWEEN:

M/S HDFC BANK LTD.,
(FORMERLY HDFC LTD.
PRIOR TO AMALGAMATION)
A COMPANY INCORPORATED
UNDER COMPANIES ACT, 1956.
HAVING ITS REGISTERED OFFICE AT
ALSO HAVING OFFICE AT
HDFC BANK HOUSE,
SENAPATI BAPAT MARG,
LOWER PAREL
MUMBAI 400 013.
H.D.F.C. HOUSE, NO. 51,
KASTURBA ROAD,
BENGALURU 560 001.
REPRESENTED BY
MR. SHRIDHAR CHINNI
SENIOR MANAGER,
RETAIL PORTFOLIO MANAGEMENT

...PETITIONER

(BY SRI. VARUN S., ADVOCATE)

AND:

MR PRABHURAJ SIDDANAGOUDA PATIL
S/O. SIDDANAGOUDA NINGANAGOUDA
AGED MAJOR,
RESIDING AT FLAT 301,
SITE NO.1292, AASHRAYA BUILDING,
6TH CROSS, 2ND MAIN

Digitally
signed by
SUVARNA T
Location:
HIGH COURT
OF
KARNATAKA



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NEAR SBI, MCECHS LAYOUT,
DR. SHIVARAMKARANTH NAGAR
BENGALURU - 560 007

...RESPONDENT

(BY SRI. KIRAN V RON, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER DATED: 24.09.2024 PASSED BY THE LD.VI ADDITIONAL CITY CIVIL AND SESSIONS COURT, BENGALURU-CCH 11 IN O.S.NO. 695 OF 2020 ON I.A.NO.1 OF 2024 FILED BY THE PETITIONER UNDER ORDER XXIII RULE 1(3) OF THE CODE OF CIVIL PROCEDURE 1908 SEEKING WITHDRAWAL OF THE SUIT i.e. ANNEXURE-E.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The present writ petition is filed seeking the following prayer:

- i. Issue a writ of certiorari setting aside the order date 24.09.2024 passed by the VI Addl. City Civil & Sessions Court, Bangaluru-CCH-11, in OS.No.695/2020 on IA.no.1 of 2024 filed by the petitioner under Order XXIII Rule 1(3) of the CPC, 1908 seeking withdrawal of the suit (Ann-E)***
- ii. Grant leave to the petitioner to file an additional affidavit in support of the application seeking withdrawal of the suit i.e., IA.No.1/2024 and direct VI Addl. City Civil & Sessions Court, Bangaluru to consider such application (Ann-D)***



- iii. Grant leave of the petitioner to file the separate applications seeking refund of the entire court fee and return of original documents and direct Ld. Trial Court to consider such application.***
- iv. Grant any other order or relief in the interests of justice.***

2. The petitioner seeks to withdraw the suit and file an application under Order XXIII Rule 1(3) of the CPC. The trial court dismissed the application, observing that, in the absence of satisfaction under Order XXIII Rule 1 of the CPC, the question of granting permission to withdraw the suit with liberty to file a fresh case does not arise. As per the order dated 27.06.2024, the plaintiff sought time to file a better affidavit in support of the application. Even thereafter, no such better affidavit was filed to comply with the provisions of Order XXIII Rule 1(3) of the CPC. Therefore, as per the application, there is no formal defect or sufficient grounds for the plaintiff to withdraw the suit, and accordingly, the application was rejected.

3. Learned counsel appearing for the petitioner submits that there was a communication gap, which prevented the filing of a better affidavit. Accordingly, this order may be set aside,



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and the petitioner may be permitted to file a better affidavit and a fresh application under Order XXIII Rule 1(3) of the CPC.

4. Learned counsel appearing for the respondent submits that the trial court has already granted them time. Despite that, they failed to do so, and the court has rejected the application and there are no grounds to interfere.

5. Having heard the learned counsels on either side, perused the material on record. The Court finds that the petitioner has filed an application under Order XXIII Rule 1(3) of the CPC seeking to withdraw the petition. However, the application does not provide sufficient reason. The trial court has given them reasonable time, but despite that, when the petitioner failed to file sufficient documents, the trial court rejected the IA. Considering the facts and circumstances of the case and balancing the interests of the parties, this Court is passing the following:

ORDER

- i. The order impugned dated 24.09.2024 on I.A.No.1/2024 in OS.No.695/2020 passed by the VI



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Addl. City Civil & Sessions Judge, Bengaluru **is set aside** and the matter is **remanded back** to the trial Court.

- ii. The petitioner is permitted to file an application afresh under 23 Rule 1(3) of CPC along with a better affidavit and the trial court shall consider the same in accordance with law.
- iii. Accordingly, the writ petition is ***Allowed.***
- iv. Pending I.As., in this petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

TS,List No.: 1 SI No.: 68