



CNR: KAHC010492642025

NC: 2026:KHC:54484
WP No. 22721 of 2025
C/W WP No. 19011 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 22721 OF 2025 (GM-CPC)

C/W

WRIT PETITION NO. 19011 OF 2025 (GM-CPC)

IN WP No. 22721/2025

BETWEEN:

1. DR. VISHWANATH B.A.,
AGED ABOUT 50 YEARS
S/O LATE SRI. B.V. ANANTH RAMAIAH,

2. DR. PRIYA VISHWANATH,
AGED ABOUT 41 YEARS
W/O DR. VISHWANATH B.A.,

BOTH ARE R/AT NO.193,
SFS 208 LAYOUT,
YALAHANKA NEW TOWN,
BANGALORE - 560 064.

...PETITIONERS

(BY SRI. GURUVA REDDY N., ADVOCATE)

Digitally signed
by VINUTHA B
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Location: High
Court of
Karnataka





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AND:

1. SMT. INDUMATHI
AGED ABOUT 68 YEARS,
W/O S.R. SOMASHEKAR, NO.33,
GROUND FLOOR, 8TH MAIN,
11TH CROSS, MALLESHWARAM
BANGALORE - 560 003.

...RESPONDENT

(BY SRI. KUMARA K.G., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DTD 21.10.2024 PASSED ON I.A. UNDER ORDER-IX, RULE 7 SECTION 151 OF CPC IN O.S.NO.356/2022 VIDE ANNEX-E. AND ETC,.

IN WP NO. 19011/2025

BETWEEN:

1. DR. VISHWANATH B.A.,
AGED ABOUT 50 YEARS
S/O LATE SRI. B.V. ANANTH RAMAIAH,
 2. DR. PRIYA VISHWANATH,
AGED ABOUT 41 YEARS
W/O DR. VISHWANATH B.A.,
- BOTH ARE R/AT NO.193,
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YALAHANKA NEW TOWN, BANGALORE - 560 064.

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AND:

1. SMT. INDUMATHI
AGED ABOUT 68 YEARS,
W/O S.R. SOMASHEKAR, NO.33,
GROUND FLOOR, 8TH MAIN,
11TH CROSS,
MALLESHWARAM
BANGALORE - 560 003.

...RESPONDENT

(BY SRI. KUMARA K.G., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 04-04-2025 PASSED ON I.A UNDER SECTION-151 OF CPC IN O.S.NO.356/2022 VIDE ANNEXURE-H. AND ETC,.

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

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND



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ORAL ORDER

Writ Petition No.22721/2025 is filed impugning the order dated 21.10.2024, whereby the order dated 06.10.2023 placing the respondent *ex parte* has been set aside. Writ Petition No.19011/2025 is filed impugning the order dated 04.04.2025, whereby the respondent has been permitted to file the written statement.

2. Learned counsel appearing for the petitioners submits that the Court notice remained unserved on the respondent and, thereafter, substituted service by way of paper publication was effected. It is submitted that, as the respondent remained unrepresented before the Court, he was placed *ex parte* on 06.10.2023.

2.1 It is further submitted that the Trial Court proceeded with the matter and, when the suit was posted for judgment, the respondent filed an application on 08.07.2024 seeking to set aside the order placing him *ex parte*. Learned counsel submits that the pendency of the suit was within the knowledge of the



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respondent, as the same was notified in respect of the suit schedule property.

2.2 It is further submitted that, despite having knowledge of the pendency of the suit, the respondent allowed the proceedings to continue and, only when the matter reached the stage of judgment, filed the application seeking recall of the order placing him *ex parte*, with a view to delaying the proceedings. It is contended that the Trial Court has, therefore, erroneously entertained the said application.

3. Learned counsel appearing for the respondent submits that the address of the respondent furnished in the plaint is incorrect and that the name of the respondent was also incorrectly notified in the newspaper. It is submitted that it was only upon the respondent being informed by a relative about the pendency of the suit that the respondent came to know of the proceedings and, thereafter, filed the application.

3.1 It is further submitted that the Trial Court, with a view to afford an opportunity to the respondent to put forth a valid defence, has rightly entertained the application.



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4. Considered the submissions made by learned counsel for the parties and perused the impugned order.

5. It is evident from the record that the respondent is not residing at the address furnished in the plaint. The address furnished in the affidavit accompanying the application substantiates the same. The paper publication was effected in a newspaper having wide circulation in the locality, based on the pleadings placed before the Trial Court. Though it is submitted that the pendency of the suit was notified on the suit schedule property, the same is not established from the record.

6. In a suit for injunction, if an opportunity is denied to the respondent, who claims to be in possession of the suit schedule property, to put forth a valid defence, the same may result in multiplicity of proceedings. On the other hand, if the respondent is permitted to participate in the proceedings, he would have an opportunity to assist the Court in effectively and comprehensively adjudicating the dispute, besides ensuring compliance with the principles of natural justice.



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7. No doubt, the non-appearance of the respondent has caused prejudice to the petitioners. However, such prejudice can be adequately compensated by imposing costs. Further, once the order placing the respondent *ex parte* is recalled, unless permission is granted to file the written statement, the very purpose of permitting the respondent to participate in the proceedings would stand defeated. In that view of the matter, the Trial Court was justified in permitting the respondent to file the written statement.

8. In view of the foregoing observations, this Court is not inclined to interfere with the orders impugned in these petitions, except to the extent of modifying the costs imposed. The costs imposed at Rs.1,000/- in each order is enhanced to Rs.10,000/-.

Accordingly, the writ petitions stand ***disposed of***.

Sd/-
(K. V. ARAVIND)
JUDGE

DDU
List No.: 1 Sl No.: 9