



CNR: KAHC010421792026

NC: 2026:KHC:42515
WP No. 19329 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO.19329 OF 2026 (GM-CPC)

BETWEEN:

SMT. RADHA,
W/O SRI. VENUGOPAL,
AGED ABOUT 50 YEARS,
RESIDING AT NO.1185/20,
14TH MAIN, PRAKASHNAGAR,
BANGALORE - 560 010

...PETITIONER

(BY SRI. P.B. RAJU, ADVOCATE)

AND:

1. SRI. SHARATH KUMAR SHETTY
S/O SRI. MANJUNATHA SHETTY
AGED ABOUT 48 YEARS,
RESIDING AT NO.9, "NAGASRI"
4TH CROSS, SEENAPPA LAYOUT,
PAPAREDDYPALYA,
NAGARABHAVI 2ND STAGE,
BANGALORE - 560 072
2. THE AUTHORIZED OFFICER,
TUMKUR GRAIN MERCHANT'S CO-OPERATIVE
SOCIETIES, RAJAJINAGAR 4TH BLOCK,
RAJAJINAGAR, BANGALORE - 560 010

...RESPONDENTS

(BY SRI. VIGNESH SHETTY, ADVOCATE FOR R1)



CNR: KAHC010421792026

NC: 2026:KHC:42515
WP No. 19329 of 2026

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF CERTIORARI OR SUCH OTHER WRIT QUASHING THE ORDERS DATED 04.06.2026 PASSED ON IA NO.16 FILED UNDER ORDER VI RULE 17 R/W SECTION 151 OF CPC, FILED BY THE PETITIONER / DEFENDANT NO.1 IN O.S NO.5255/2019 ON THE FILE OF THE VI ADDL. CITY CIVIL & SESSIONS JUDGE, BANGALORE CITY (CCH-11) AND CONSEQUENTLY ALLOW THE SAID APPLICATION. WHICH IS PRODUCED AT ANNEXURE-A IN THE WRIT PETITION.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

Aggrieved by the orders passed on I.A.No.16 filed under Order VI Rule 17 R/w Section 151 of CPC in O.S.No.5255/2019 dated 04.06.2026 by the VI Addl. City Civil and Sessions Judge, Bengaluru City, the defendant No.1 is before this Court.

2. The respondent herein has filed a suit for specific performance. When the matter came up for the defendant's evidence, an application is filed under Order VI Rule 17 of the CPC seeking to amend the plaint, which was dismissed by the trial court by order impugned. While dismissing the application, the trial court observed that the written statement was filed on 03.10.2020, issues were framed on 08.04.2023, and thereafter



CNR: KAHC010421792026

the plaintiff entered the witness box, adduced evidence, and was fully cross-examined by the defendants. The matter is now posted for the evidence of defendant No.1. The trial court observed that the amendment, filed at this stage, merely asserts that the mere change of advocate or an omission on the part of the previous advocate cannot, by itself, constitute due diligence within the meaning of the proviso to Order VI Rule 17 of the CPC. If such a ground were accepted, the proviso would become redundant, and parties would be permitted to amend pleadings at any stage of the proceedings. Further, a perusal of the proposed amendment discloses that defendant No.1 seeks to introduce detailed allegations regarding fraud, misrepresentation, loan transactions, repayment of the loan, and other facts that were not pleaded in the original written statement. Such an amendment substantially changes the nature and scope of the defense already taken and seeks to institute a new case after completion of the plaintiff's evidence. The plaintiff has already adduced his evidence and has been fully cross-examined. Allowing the proposed amendment at this stage would necessarily require reopening the plaintiff's



CNR: KAHC010421792026

evidence, would cause serious hardship to the plaintiff, and would delay the disposal of the suit. Accordingly, the trial court has dismissed the application.

3. Learned counsel appearing for the petitioner/defendant No. 1 submits that the trial court had failed to consider that, if the amendment is not allowed, it would cause significant hardship to the defendant. It is submitted that the defendant is a widow and has to care for the children. In the process, because there was no proper legal advice, although she had already stated the fraud and other matters, she could not elaborate on them in the written statement. After she engaged a new advocate, and at his advice, they learned that these aspects needed to be stated; hence, they have come up with this petition. It is submitted that there is no intention on the part of the defendant to delay the proceedings.

4. Learned counsel appearing for the respondent/plaintiff submits that after the plaintiff's evidence was completed, the defendant raised such a plea. An earlier application to reopen the evidence was allowed, and after that, the present



CNR: KAHC010421792026

**NC: 2026:KHC:42515
WP No. 19329 of 2026**

application was filed. It submits that the present application is only intended to drag on the proceedings and, based on the reasons stated in the application, cannot be a ground for amending the written statement. It further submits that if the amendment is allowed, it would cause significant prejudice to the plaintiff, and the trial court has rightly considered all these aspects and dismissed the application, and there are no grounds to interfere.

5. Having heard the learned counsel for both parties and perused the material on record, the Court finds that the suit is for specific performance and that a written statement has been filed in the suit. The Court has perused the written statement, which already provides a factual basis for the fraud and other allegations made therein. However, by way of this amendment, the plaintiff seeks to elaborate those allegations. The Court finds force in the argument of the learned counsel for the respondent and in the reasoning given by the trial Court. According to the learned counsel for the respondent, the change of advocate cannot be a ground. The advocate was changed in 2022, and the application was not filed until 2026.



CNR: KAHC010421792026

There are clear latches on the part of the defendant in filing an application seeking amendment of the pleadings. However, considering the kind of allegations made in the original written statement and the need to prove them, this elaboration of facts is required in the interest of justice and by balancing the interests of both parties. This Court is passing the following:

ORDER

- i. The order passed on I.A.No.16 in O.S.No.5255/2019 dated 04.06.2026 by the VI Additional City Civil and Sessions Judge, Bengaluru City, is **set aside** on the condition that the petitioner shall pay an amount of Rs.50,000/- towards costs to the Respondent and consequently I.A.No.16 is **allowed**.
- ii. The amended written statement shall be filed immediately, and the petitioner shall not seek unnecessary adjournments.



CNR: KAHC010421792026

NC: 2026:KHC:42515
WP No. 19329 of 2026

- iii. If the petitioner does not co-operate for the disposed of the matter, the trial court shall proceed in accordance with law.
- iv. Accordingly, the writ petition is ***Allowed.***
- v. All I.As in the petition shall stand closed.

SD/-
(LALITHA KANNEGANTI)
JUDGE

TS
List No.: 1 Sl No.: 35