



CNR: KAHC010473502021

NC: 2026:KHC:44814  
WP No. 23173 of 2021

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 19<sup>TH</sup> DAY OF AUGUST, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL**

**WRIT PETITION NO. 23173 OF 2021 (GM-CPC)**

**BETWEEN:**

STATE BANK OF INDIA  
CORPORATE INSTITUTE UNDER  
THE STATE BANK OF INDIA ACT 1955  
WITH HIS CORPORATE CENTRE AT  
MADAM CAMA ROAD,  
NARIMAN POINT, MUMBAI - 400 021,  
AND A LOCAL HEAD OFFICE AT NO.65,  
ST. MARKS ROAD, BANGALORE - 560 001  
CENTRALISED CLEARING PROCESSING  
CENTRE AT EARLIER HAVING VASAVI COMPLEX  
1ST FLOOR, 17, ST. MARKS ROAD  
BANGALORE - 560 001,  
NOW HAVING OFFICE AT 1ST FLOOR,  
BKG COMPLEX, AVENUE ROAD  
BANGALORE - 560 002  
REPRESENTED BY ITS CHIEF MANAGER  
SRI. M. KUNHAPPA NAIK, HINDU, MAJOR.

...PETITIONER

(BY SRI. S. KRISHNA SWAMY, ADVOCATE)

**AND:**

1. MR. MOHAMMED SARJOO  
FATHER'S NAME NOT KNOWN  
TO THE PLANTIFF, MAJOR  
NO.39, MOMIPORE ROAD,



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KOLKATA - 700 023.

2. M/S. INDUS IND BANK LTD.,  
SERVICE BRANCH  
NO.25, MANGALAM CHAMBERS,  
3RD FLOOR, K.H. ROAD  
BNGALORE - 560 027.  
REPRESENTED BY ITS ASSISTANT  
GENERAL MANAGER.

...RESPONDENTS

(R1 - SERVICE OF NOTICE IS DISPENSED WITH CIDE COURT  
ORDER DATED 03.01.2022; R2 - SERVED)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE  
CONSTITUTION OF INDIA PRAYING TO QUASH ANNX-F ORDER  
DTD 23.11.2021 PASSED ON IA-9 FILED BY PETITIONER  
UNDER ORDER XIV RULE 5 CPC IN OS 8533/2003, ON THE FILE  
OF XXXIX ADDITIONAL CITY CIVIL JUDGE BANGALORE (CCH-  
30) AND ETC.,

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

**CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL**

**ORAL ORDER**

This writ petition is filed challenging the order dated  
23.11.2021 passed on I.A.No.9 in O.S.No.8533/2013 on  
the file of the XXXIX Additional City Civil Judge, Bengaluru



(CCH - 30) (hereinafter referred to the 'trial Court' for short).

2. Sri Krishna Swamy S., learned counsel appearing for the petitioner, submits that the petitioner-State Bank of India filed a suit in O.S.No.8533/2013 for recovery of money against the respondents herein. In the said suit, defendant No.2 entered appearance and filed a written statement denying the assertions made in the plaint. The trial Court framed the issues, and the parties adduced evidence. Thereafter, the plaintiff filed an application in I.A.No.9 under Order XIV Rule 5(1) read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'CPC') seeking to frame an additional issue, casting the burden on defendant No.2 with regard to the exercise of necessary caution while opening the bank account of defendant No.1, so as to claim protection under Section 131A of the Negotiable Instruments Act, 1881.

3. It is submitted that the trial Court, vide order dated 23.11.2021, without appreciating the pleadings on



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record, rejected the application filed by the plaintiff on the ground that the entire burden was on the plaintiff to prove its case, as the suit was one for recovery of money, and that the application had been filed belatedly. It is also submitted that the Division Bench of this Court, in similar circumstances, in the case of **STATE BANK OF MYSORE VS. THE KARNATAKA INDUSTRIAL CO-OPERATIVE BANK LTD. AND ANOTHER<sup>1</sup>**, had framed an issue as sought in the present application and remitted the matter to the trial Court.

4. It is further submitted that, in the case of **ANNEPPA CHANNAPPA SHETKAR AND ANOTHER, ETC. VS BANDEVVA (DECEASED BY L.RS.) AND OTHERS<sup>2</sup>**, this Court, at paragraph No.8, has held that the rejection of the application on the ground of delay or laches may not be justified, particularly when the appeal is remanded to the trial Court with a direction to frame

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<sup>1</sup> RFA.No.1079/2007 DD: 18.08.2014

<sup>2</sup> AIR 2004 Karnataka 276



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proper issues and record the findings on the same. Hence, he seeks to allow the petition.

5. Notice has been served on the respondents. There is no representation on their behalf.

6. I have heard the arguments of the learned counsel for the petitioner and meticulously perused the material available on record.

7. The petitioner filed a suit in O.S.No.8533/2013 seeking a judgment and decree directing the defendants to pay a sum of Rs.6,80,405/- with interest at the rate of 18% per annum. The primary contention of the petitioner/plaintiff in the suit is that defendant No.1 is a fictitious person, who opened an account with defendant No.2 and presented a cheque as if M/s Zila Loka Sikshana Samithi, Patna had issued the said cheque in his favour. The said cheque was presented by defendant No.2 to the plaintiff for encashment and was accordingly encashed, and the amount was paid.



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8. It is submitted that M/s Zilla Loka Sikshana Samithi, Patna, raised a complaint stating that it had not issued the cheque in question. Thereafter, the plaintiff immediately remitted the said amount to its customer. It is specifically averred that defendant No.2, without verifying the genuineness of the documents produced by defendant No.1 while opening the account and in violation of the KYC norms issued by the Reserve Bank of India, opened the account. Hence, the petitioner sought the framing of an additional issue casting the burden on defendant No.2 to prove the same.

9. The trial Court, under the impugned order dated 23.11.2021, rejected the said application mainly on the ground that the suit was one for recovery of money and that the entire burden was on the plaintiff to prove its case.

10. It is required to be noticed that the application for framing an additional issue was filed at a belated stage, when the matter was posted for arguments. A



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perusal of the issues framed by the trial Court indicates that no issue has been framed with regard to the obligation of defendant No.2 to verify the genuineness of the documents produced by defendant No.1 while opening the account. The plaintiff, in paragraph Nos.4 to 6 of the plaint, has made specific assertions with regard to the aforesaid facts. However, the trial Court has failed to take note of the said facts and has not framed the issues in that regard.

11. Defendant No.2 has denied the said assertions in its written statement. When there is a specific assertion by the plaintiff that there was negligence on the part of defendant No.2 in following the KYC norms in order to claim protection under Section 131A of the Negotiable Instruments Act, 1881, in my considered view, the application deserves to be allowed for a complete adjudication of the dispute. The trial Court has committed a grave error in coming to the conclusion that the entire burden is on the plaintiff to prove its case. The plaintiff has



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specifically pleaded in paragraph Nos.4 to 6 of the plaint with regard to the aforesaid assertions and the negligence on the part of defendant No.2, and the said aspect is required to be gone into by the trial Court during the course of the evidence. In the absence of any issue in that regard, the trial Court would not be able to record any finding. Hence, I proceed to pass the following:

**ORDER**

- i) The writ petition is ***allowed***.
- ii) The impugned order dated 23.11.2021 passed on I.A.No.9 in O.S.No.8533/2013 on the file of the XXXIX Additional City Civil Judge, Bengaluru (CCH - 30) is hereby set aside.
- iii) Consequently, the I.A.No.9 filed by the plaintiff under Order XIV Rule 5(1) read with Section 151 of the CPC is allowed.
- iv) The trial Court is directed to frame the additional issue as sought in the aforesaid



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application and conduct the trial by  
providing an opportunity to the parties to  
lead evidence on the said issue.

No order as to costs.

**Sd/-  
(VIJAYKUMAR A. PATIL)  
JUDGE**

SHS  
List No.: 1 Sl No.: 20