



CNR: KAHC010491282022

NC: 2026:KHC:36491
W.P. No.21336/2022
C/W W.P. No.21310/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.21336/2022 (GM-CPC)

C/W

WRIT PETITION NO.21310/2022 (GM-CPC)

IN W.P. No.21336/2022:

BETWEEN:

SRI. H.S. MURALIDHARA ARAS
S/O LATE H.K. SRINIVASA ARAS
AGED ABOUT 59 YEARS
VEDASHREE, 60 FT. ROAD
OPP NEW SHANESWARA TEMPLE
2nd STAGE, VINOBHANAGAR
SHIVAMOGGA 577 2014.

...PETITIONER

Digitally signed by RUPA V (BY SRI. RAMESHCHANDRA, ADV.,)

Location: HIGH COURT OF KARNATAKA

AND:

1. UNION OF INDIA
MINISTRY OF RAILWAY
RAIL BHAVAN
PARLIAMENTARY HOUSE
NEW DELHI 110 001
REP BY ITS CHIEF SECRETARY.
2. THE SOUTH WESTERN RAILWAYS
HUBLI 580 020
REP BY ITS CHIEF GENERAL MANAGER.



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3. THE CHIEF COMMERCIAL MANAGER
(CCM) SOUTH WESTERN RAILWAY
HUBLI 580 020.
4. THE STATION MASTER
THE SOUTH WESTERN RAILWAYS
SHIVAMOGGA MAIN RAILWAY STATION
SHIVAMOGGA CITY – 577204.

...RESPONDENTS

(BY SRI. A. CHANDRACHUD, CGSC FOR R1 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH ANNEXURE-A ORDER DTD.10.8.2022 AND ALLOW THE APPLICATION UNDER ORDER 6 RULE 17 RAD WITH SECTION 151 OF CODE OF CIVIL PROCEDURE i.e., I.A. NO.VIII IN O.S.NO.399/2015 ON THE FILE OF THE V ADDITIONAL CIVIL JUDGE AND JMFC AT SHIVAMOGGA & ETC.

IN W.P. NO.21310/2022:

BETWEEN:

SRI. H.S. MURALIDHARA ARAS
S/O LATE H.K. SRINIVASA ARAS
AGED ABOUT 59 YEARS
VEDASHREE, 60 FT. ROAD
OPP NEW SHANESWARA TEMPLE
2nd STAGE, VINOBBHANAGAR
SHIVAMOGGA 577 2014.

...PETITIONER

(BY SRI. RAMESHCHANDRA, ADV.,)



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AND:

1. UNION OF INDIA
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NEW DELHI 110 001
REP. BY ITS CHIEF SECRETARY.
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HUBLI 580 020
REP BY ITS CHIEF GENERAL MANAGER.
3. THE CHIEF COMMERCIAL MANAGER
(CCM) SOUTH WESTERN RAILWAY
HUBLI 580 020.
4. THE STATION MASTER
THE SOUTH WESTERN RAILWAY
MYSORE RAILWAY STATION
MYSORE-577204.

...RESPONDENTS

(BY SRI. CHANDRACHUD A, CGSC)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH ANNEXURE-A ORDER DTD 10.08.2022 AND ALLOW THE APPLICATION UNDER ORDER 6 RULE 17 R/W SECTION 151 OF CODE OF CIVIL PROCEDURE I.E., I.A.NO.VIII IN O.S.NO.398 OF 2015 ON THE FILE OF THE V ADDITIONAL CIVIL JUDGE AND JMFC, AT SHIVAMOGGA & ETC.

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



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

ORAL ORDER

W.P.No.21336/2022 is filed challenging the order dated 10.08.2022 passed on I.A.No.8 in O.S.No.399/2015 and W.P.No.21310/2022 is filed challenging the order dated 10.08.2022 passed on I.A.No.8 in O.S.No.398/2015 on the file of the V Additional Civil Judge and JMFC, Shivamogga (for short, '***the trial Court***').

2. Sri.Rameshchandra, learned counsel for the petitioner submits that the petitioner is the allottee of the stall by the respondents-Railways in Shivamogga Railway Station. The necessary agreement was entered into between the parties and thereafter the petitioner-plaintiff filed a suit for declaration that the agreement dated 15.07.2010 is a lease agreement and not the license and further declaration that the plaintiff is entitled for renewal of the lease and also sought for permanent injunction against the defendants. The trial Court considering the



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case of the plaintiff, granted temporary injunction. However, in violation of the temporary injunction, the respondents-defendants forcefully closed down the premises on 22.12.2015, which compelled the plaintiff to file an application seeking amendment of the plaint by seeking additional prayer of mandatory injunction against the defendants. The said application was opposed by the defendants. The trial Court under the impugned order rejected the said application erroneously on the ground of delay. In support of his contentions, he placed reliance on the decision of the Hon'ble Supreme Court in the case of **Surender Kumar Sharma v. Makhan Singh**¹ and the decision of this Court in the case of **Shri Mohammadrafi and Anr. v. Bandenawaz and Ors.**² and seeks to allow the petition.

3. Per contra, Sri.Chandrachud A, learned Central Government Standing Counsel appearing for the

¹ 2009 AIR SCW 6131

² 2025 Supreme(Kar) 1820



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respondents-defendants opposed the writ petition and submits that the trial Court has assigned detailed reasons for rejection of the applications as the plaintiff himself has pleaded that on 22.12.2015, the defendants have forcefully closed the shutters of the shop and when the plaintiff had knowledge about such a closure, which is actually a false assertion, the plaintiff would have filed an application immediately and filing an application in the year 2022 is impermissible and there is no due diligence. It is submitted that respondents-defendants have filed a detailed written statement to the writ petition wherein an agreement dated 15.12.2010 entered between the plaintiff and the defendants is produced and as per the said agreement, the term to carry out the business by the plaintiff has come to an end on 17.05.2015 and the said agreement is a license agreement and not the lease agreement. It is further submitted that the plaintiff is in possession and carrying out the business which can be noticed from the document placed along with objection



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wherein it indicates that the plaintiff has consumed the electricity by carrying out the business from January 2018 till February 2020 and the plaintiff has made the payment towards the consumption of electricity. Hence, the very filing of an application seeking amendment of prayer for mandatory injunction is to overcome the dues i.e., license fees from 18.05.2015 to 18.05.2024, and he submits that thereafter also no license fee has been paid by the plaintiff. Hence, he seeks to dismiss the writ petitions.

4. I have heard the arguments of learned counsel for the petitioner, learned Central Government Standing Counsel appearing for the respondents-defendants and meticulously perused the material available on record.

5. The petitioner-plaintiff had filed the suits in O.S.No.398/2015 and O.S.No.399/2015 and both suits are pending before the same Court and are pertaining to two different agreements with regard to the two stalls allotted by the defendants.



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6. It is to be noticed that the petitioner-plaintiff has sought the relief of declaration that the agreement dated 15.07.2010 is the agreement of lease but not the license and further declaration that the plaintiff is entitled to renew the said lease agreement for further period of five years and also sought for relief of permanent injunction. The defendants have filed the detailed written statement denying the plaint assertions. It is also required to be noticed that the trial Court considered the plaintiff's application filed under Order XXXIX Rule 1 and 2 of CPC and granted temporary injunction against the defendants from interfering with the use of the allotted premises. The order sheet indicates that the plaintiff was also provided with the police protection when a complaint is made that there is an interference by the defendants despite the temporary injunction. Be that as it may. The plaintiff filed an affidavit in examination-in-chief, thereafter, filed applications in both the suits seeking amendment of the



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plaints. The said applications were opposed by the defendants. The trial Court under the impugned orders rejected the said applications.

7. It is required to be noticed that plaintiff is making a specific assertion in the plaint that in violation of temporary injunction granted by the trial Court, the defendants on 22.12.2015 have forcefully closed the premises and the petitioner is unable to carry out the business and he intends to bring on record the said aspect in the form of amendment to the plaints by seeking insertion of para No.18A to 18D. The plaintiff is also seeking relief of mandatory injunction against the defendants seeking prayer to restore the actual and physical possession of the suit schedule property in favour of the plaintiff forthwith and in the event of failure of the defendants and its officials to do so, to permit the plaintiff to get the actual possession thereof through the Court Commissioner at the cost of defendants.



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8. It is required to be noticed that the plaintiff is making a specific assertion that despite the temporary injunction and police protection, the defendants are not allowing him to open the shop and not permitting him to carry out the business from 22.12.2015. The defendants, by filing the detailed objections to the writ petitions, tried to point out that the petitioner-plaintiff is carrying out the business and to overcome the payment of license fees, the present applications are filed.

9. Be that it may, in my considered view, allowing the applications seeking additional prayer of mandatory injunction would not cause any prejudice to the other side as the issue with regard to the non-payment of license fee, as stated in the written statement, is required to be considered by trial Court while considering the relief of mandatory injunction. The trial Court, at the time of trial, is also required to consider the assertion made by the plaintiff that the defendants have forcefully closed the



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business on 22.12.2015. Mere allowing the said applications does not amounts to accepting the case of the plaintiff for relief sought for mandatory injunction. In my considered view, though there is a delay in filing the applications, the interest of justice would be met if the applications are allowed by permitting the petitioner-plaintiff to amend the plaints.

10. It is made clear that by allowing the plaintiff to bring certain new facts on record and permitting to seek additional prayer shall not be construed that the defendants have forcefully closed the premises of the plaintiff and the said aspect is required to be proved by the plaintiff by cogent and documentary evidence before the trial Court during the course of trial.

11. The defendants are permitted to file additional written statement to the amended plaints. The Hon'ble Supreme Court in the case of ***Surender Kumar Sharma*** referred supra has held that the delay cannot be the sole



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ground to reject the application for amendment and the similar view is taken by this Court in the case of ***Shri Mohammadrafi*** referred supra. Considering the aforesaid decisions, I am of the view that the applications filed just after filing of the affidavit in examination-in-chief of PW1, if allowed, would not cause any prejudice to the other side. Hence, I proceed to pass the following:

ORDER

- i. Both the writ petitions are ***allowed***.
- ii. The impugned order dated 10.08.2022 passed on I.A.No.8 in O.S.No.399/2015 and the order dated 10.08.2022 passed on I.A.No.8 in O.S.No.398/2015 on the file of the V Additional Civil Judge and JMFC, Shivamogga, are set-aside. Consequently, I.A.Nos.8 filed by the plaintiff in both the suits for amendment are allowed.
- iii. The plaintiff shall file amended plaints within a period of three weeks from today. The



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defendants are permitted to file additional written statement within a period of three weeks from the date of filing of the amended plaint.

- iv. The trial Court shall dispose of both the suits as early as possible within an outer limit of eight (08) months from the date of receipt of copy of this order.
- v. All contentions of the parties are kept open.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 1 Sl No.: 18