



CNR: KAHC010527452026

NC: 2026:KHC:41506
WP No. 24060 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 24060 OF 2026 (GM-CPC)

BETWEEN:

1. SRI MUNIYAPPA
S/O LATE. RAMAIAH,
AGED ABOUT 73 YEARS
2. SRI.MOHAN.M,
S/O.MUNIYAPPA,
AGED ABOUT 40 YEARS,
3. SMT. MUNIYAMMA,
W/O.MUNIYAPPA
AGED ABOUT 62 YEARS

ALL ARE PRESENTLY
R/A NO.6, GROUND FLOOR,
KATHA NO. 1620/267/1A,
2ND CROSS, HCP LAYOUT,
HESARAGHATTA VILLAGE AND POST,
YELAHANKA TALUK,
BENGALURU- 560 088

Digitally signed
by SUVARNA T
Location:
HIGH COURT
OF
KARNATAKA

...PETITIONERS

(BY SRI. K.VIJAY KUMAR, ADVOCATE)

AND:

SRI MUNIKUMAR H.M.,
S/O.MUNIYAPPA
AGED ABOUT 42 YEARS,
R/A.NO.6, FIRST FLOOR,
2ND CROSS, HCP LAYOUT,
HESARAGHATTA VILLAGE AND POST,



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YELAHANKA TALUK,
BENGALURU -560 088

...RESPONDENT

(BY SRI.M.G.RAVISHA, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SETTING ASIDE THE ORDER DATED 04/04/2026 PASSED BY THE LEARNED PRL. SENIOR CIVIL JUDGE BENGALURU RURAL AT BENGALURU IN OS NO. 2108/2024 ON APPLICATION FILED UNDER SECTION 151 OF CODE OF CIVIL PROCEDURE (IA NO. 2) AS PER ANNEXURE-A.

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 order dated 04.04.2026 passed in I.A.No.II in O.S.No.2108/2024 by the Principal Senior Civil Judge, Bengaluru Rural District, Bengaluru, the petitioners/defendants are before this Court.

2. The respondent herein, who is the plaintiff, had filed O.S.No.2108/2024 seeking a declaration. When the matter was posted for arguments, the defendants had filed I.A.No.II to recall the order dated 20.06.2025 and to permit the defendants to file their written statement. The trial Court had rejected the application.



3. While rejecting I.A.No.II, the trial Court observed that the suit summons were served on 01.02.2025. The defendants entered appearance. However, the defendants failed to file their written statement within the prescribed period. Accordingly, treating the written statement as not filed, the Court proceeded further. When the matter was posted for arguments, the defendants filed the present application on 23.02.2026. The trial Court held that a written statement filed after the outer limit of 120 days from the date of service of summons shall not be entertained by the Court, and that such defendant shall forfeit the right to file the written statement, and accordingly rejected the application.

4. Learned counsel appearing for the petitioners/defendants submits that the trial Court ought to have considered the delay in filing the application and ought to have taken the written statement on record. He relied on the judgment of the Apex Court in ***Desh Raj Vs. Balkishan (D) Through Proposed LR Ms. Rohini*** arising out of ***Civil Appeal No.433/2020 dated 20.01.2020***, in paragraph Nos.18 to 22 which read thus:



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"18. It was only on 02.11.2017, after a delay of 95 days post the maximum extendable period under the Proviso of Order VIII Rule 1, CPC that the appellant claimed to have filed his written statement. Curiously however, even by the next hearing on 03.11.2017, the appellant had failed to provide a copy of the written statement to the respondent as had been noted by the Civil Court.

19. The only defence taken to these repeated and blatant lapses is that the appellant's counsel was not turning up. No attempt has been made to even proffer a reasoned justification or explanation, and it is clear that appellant is seeking condonation in a casual manner. This ought not to be permitted or encouraged. Courts must act stringently to ensure that all proceedings are decided within reasonable time, and it is but the duty of the judicial system to cultivate a culture of respecting deadlines and time of the Court, its officers as well as of adversaries.

20. Routine condonations and cavalier attitudes towards the process of law affects the administration of justice. It affects docket management of Courts and causes avoidable delays, cost escalations and chaos. The effect of this is borne not only by the litigants, but also commerce in the country and the public in general who spend decades mired in technical processes.

21. It is obvious from the record that nothing prevented the appellant from filing the written statement through counsel or in person. He has, thus, failed to give any cogent reason for the delay and is unable to satisfy due diligence on his part though he is right in his submission that the High Court erroneously relied upon the ratio of Oku Tech (supra).

22. Having held so, there could be no escape but to dismiss this appeal. However, taking a lenient view given the unique circumstances of the case, and without laying down the discretion being exercised hereinafter, as a precedent, we direct that the written statement filed by the appellant on 02.11.2017 (as claimed), be taken on record with a copy to counsel for the respondent within one week from today and further subject to payment of costs of Rs. 25,000/ to the respondent."



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5. The Apex Court, having assessed the law, has taken a lenient view and directed that the written statement to be taken on record within one week from the date of the order, subject to payment of Rs.25,000/- to the respondent. Relying on the judgment, learned counsel submits that a lenient view may be taken.

6. Learned counsel appearing for the respondent/plaintiff has drawn the attention of this Court to the affidavit, which does not contain any reason. It is submitted that the children of this defendant are contesting the matter and, knowing fully well that the matter is posted for arguments, the defendant has come up with this application only to delay the proceedings. Learned counsel relied on the judgment of Co-ordinate Bench of this Court in case of **Ashok Murthy and Others Vs. Muniyamma Since Deceased by her LRs and Others**¹, in paragraph Nos.10 and 11 which read thus:

"10. Reading of the above would indicate that the provision of Order VIII Rule 1 of CPC is directory and not mandatory. But the extension of time to file written statement can be only as an exception and for reasons assigned by the defendant and recorded by the court to its satisfaction. The defendants cannot be permitted to

¹ AIR Online 2020 Kar 948



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file written statement at their own sweet will. The Hon'ble Supreme Court in a recent decision in the case of DESH RAJ v/s BALKISHAN (DEAD) THROUGH PROPOSED LEGAL REPRESENTATIVE MS.ROHINI reported in (2020) 2 SCC 708 while considering timeline for filing written statement in a non-commercial dispute, at paragraphs 10, 11, 13, 15 and 19 has held as follows:

"10. At the outset, it must be noted that the Commercial Courts Act, 2015 through Section 16 has amended the CPC in its application to commercial disputes to provide as follows:

"16.Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes:-

(1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, in their application to any suit in respect of a commercial dispute of a specified value, stand amended in the manner as specified in the Schedule.

(2) The Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, in the trial of a suit in respect of a commercial dispute of a specified value.

(3) Where any provision of any rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908, by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail."

11. Hence, it is clear that post coming into force of the aforesaid Act, there are two regimes of civil procedure. Whereas commercial disputes (as defined under Section 2(c) of the Commercial Courts Act, 2015) are governed by CPC as amended by Section 16 of the said Act; all other non-commercial disputes fall within the ambit of the unamended (or original) provisions of CPC.

12.

13. As regards the timeline for filing of written statement in a non-commercial dispute, the observations of this Court in a catena of decisions, most



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recently in Atcom Technologies Ltd. v. Y.A.Chunawala & Co. holds the field. The unamended Order 8 Rule 1 CPC continues to be directory and does not do away with the inherent discretion of courts to condone certain delays.

14.

15. However, it would be gainsaid that although the unamended Order 8 Rule 1 CPC is directory, it cannot be interpreted to bestow a free hand to on any litigant or lawyer to file written statement at their own sweet will and/or to prolong the lis. The legislative objective behind prescription of timelines under CPC must be given due weightage so that the disputes are resolved in a time bound manner. Inherent discretion of courts, like the ability to condone delays under Order 8 Rule 1 is a fairly defined concept and its contours have been shaped through judicial decisions over the ages. Illustratively, extreme hardship or delays occurring due to factors beyond control of parties despite proactive diligence, may be just and equitable instances for condonation of delay.

16.

17.

18.

19. The routine condonation and cavalier attitudes towards the process of law affects the administration of justice. It affects docket management of courts and causes avoidable delays, cost escalations and chaos. The effect of this is borne not only by the litigants, but also commerce in the country and the public-in-general who spend decades mired in technical processes."

The above decision lays down that even though Order VIII Rule 1 of CPC is directory in nature, it would not permit a litigant to file written statement at his sweet will and time line prescribed under the relevant provision must be given due weightage. Delay in filing the written statement could be condoned only on reasons of extreme hardship or reasons beyond their control inspite of due diligence.

11. In the light of the above principles laid down by the Hon'ble Apex Court, the case on hand will have to be



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examined. Nodoubt, the suit is one for partition. The petitioners/ defendants No.4 to 7 were served with suit summons in the year 2012 itself. They appeared before the Court only on 05.01.2016 by filing application under Order IX Rule 7 of CPC which was allowed on cost. On appearance and thereafter, till 02.01.2020 the petitioners/defendants No.4 to 7 failed to file written statement nor to participate in the proceedings. Only on 02.01.2020, the petitioners/defendants made applications seeking leave to file written statement and to recall P.W.1 for cross-examination. There is delay of more than four years in seeking leave to file written statement. Admittedly, the application seeking leave to file written statement and application to recall P.W.1 are filed when the suit is at the stage of final arguments. No valid or cogent reasons have been assigned to condone the delay. The approach of the petitioners/defendants is very casual and they have stated that the defendants No.4 to 7 were residing in their matrimonial house and they could not instruct their counsel in time to file written statement. One another reason stated is that the plaintiffs had filed earlier partition suit in O.S.No.6451/2008 and they had to collect suit papers which took some time. The reasons stated are not at all valid or cogent reasons. One need not require four years to collect certified copies of the previously instituted suit. If the petitioners are residing at their matrimonial home, that would not prevent them from instructing their counsel to file written statement. The reasons stated are not bonafide and it appears that the intention of the petitioners is only to drag on the proceedings. Moreover, even though suit summons was served much earlier, they took years together to put in their appearance in the suit. The decisions cited by the learned counsel for the petitioners would in no way assist the petitioners. It is true that the provision of Order VIII Rule 1 of CPC is directory in nature. The decision relied upon by the petitioners at paragraphs 25 observes that any order to condone the delay in filing the written statement should be after a critical analysis of facts and circumstances of individual cases. The reasons assigned by the petitioners/defendants No.4 to 7 are neither satisfactory nor beyond their control."



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7. Learned counsel has also relied on the judgment of the Apex Court in the case of **Atcom Technologies Ltd. Vs. Y.A.Chunawala and Company and Others**², in paragraph Nos.22 and 23 which read thus:

"22. We fail to persuade ourselves with this kind of reasoning given by the High Court in condoning the delay, thereby disregarding the provisions of Order VIII Rule 1 of the Code of Civil Procedure, 1908 and the spirit behind it. This reason of the High Court that delay was condoned 'by balancing the rights and equities' is far-fetched and, in the process, abnormal delay in filing the written statement is condoned without addressing the relevant factor, viz. whether the respondents had furnished proper and satisfactory explanation for such a delay. The approach of the High Court is clearly erroneous in law and cannot be countenanced. No doubt, the provisions of Order VIII Rule 1 of the Code of Civil Procedure, 1908 are procedural in nature and, therefore, hand maid of justice. However, that would not mean that the defendant has right to take as much time as he wants in filing the written statement, without giving convincing and cogent reasons for delay and the High Court has to condone it mechanically.

23. It is also to be borne in mind that when the matter was listed on January 29, 2015, it was specifically recorded that no written statement was filed and the two suits were adjourned for ex-parte decree. In other suit i.e. Suit No. 3813 of 2000, similar Notice of Motion seeking condonation of delay was rejected though it contained same kind of explanation and that order has been upheld till this Court. On this ground also, there was no reason to take a contrary view in the instant matter when both the suits were taken up together and proceed simultaneously."

² (2018) 6 SCC 639



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8. Relying on these judgments, it is submitted that the trial Court was right in not taking the written statement on record, the writ petition is devoid of merits and is liable to be dismissed.

9. Having heard the learned counsel on either side, perused the entire material on record. The suit is filed seeking declaration. The defendants are the father and the children. It is an admitted fact that the children have already filed their written statement and are contesting the matter. After the matter was posted for arguments, the petitioner No.1/father wanted to contest the matter. This Court has perused the affidavit, and it does not contain any reasons. In this case, the interesting aspect is that when the other family members are contesting the case, why petitioner No.1 was not contesting, and now his interest is also taken care of by the other family members. Why has he come up now, when the matter is posted for arguments, to file the written statement? On the face of it, it appears that the petitioner came up with the plea only to drag on the proceedings.



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10. While taking the written statement on record, the trial Court has to consider the reasons for the delay and the facts and circumstances of the case. In this case, the other defendants have already filed the written statement, and defendant No.1 has failed to make out a reasonable cause for filing the written statement.

11. In the considered opinion of this Court, the trial Court had rightly considered the matter and passed the order, and this Court finds no reason to interfere. Hence, this Court is passing the following order:

ORDER

- i. Accordingly, the writ petition is ***dismissed***.
- ii. All I.As. in this petition shall stand closed.

**Sd/-
(LALITHA KANNEGANTI)
JUDGE**