



CNR: KAHC010539512025

NC: 2026:KHC:54485
WP No. 24839 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. 24839 OF 2025 (GM-CPC)

BETWEEN:

SHRI. SHIVAJI RAO,
S/O. NARAYANA RAO,
AGED ABOUT 65 YEARS,
R/AT NO. 2ND HOUSE, 11TH CROSS,
ADRSHA NAGAR, ARALERI ROAD,
MALUR TOWN AND TALUK,
KOLAR DISTRICT.

AND ALSO R/T
CHIKKSHIVARA VILLAGE,
KASABA HOBLI, MALUR TALUK,
KOLAR DISTRICT.

...PETITIONER

(BY SRI. M.N. RAMESHA, ADVOCATE)

AND:

SHRI. MARKONDAPPA C.,
S/O LATE CHINNAPA,
AGED ABOUT 31 YEARS,
R/AT CHAMBE VILLAGE,
TEKAL HOBLI, MALUR.

...RESPONDENT

(BY SRI. ROHITH R. KUMAR, ADVOCATE)

Digitally
signed by
VINUTHA B S
Location:
High Court of
Karnataka



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THIS WP IS FILED UNDER ARTICLE 227 OF CONSTITUTION OF INDIA PRAYING TO I) QUASH ANNEXURE -A THE IMPUGNED ORDER DATED 05/04/2025 PASSED ON IA NO.05 FILED UNDER ORDER 6 RULE 17 OF CPC IN OS NO.145/2021 PASSED BY THE SENIOR CIVIL JUDGE AND JMFC, MALUR AND CONSEQUENTLY ALLOW THE APPLICATION AS ANNEXURE -FFILED UNDER ORDER 6 RULE 17 OF CPC BY THE PETITIONER BY ISSUE OF WRIT CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR ORDER OR DIRECTION.

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

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

ORAL ORDER

The present petition impugns the order dated 05.04.2025, whereby the application filed under Order VI Rule 17 of the Code of Civil Procedure, seeking amendment of the written statement, came to be rejected.

2. Learned counsel appearing for the petitioner submits that the parties entered into two agreements of sale on 31.08.2020. Of the two documents executed simultaneously, the agreement recording the total consideration of Rs.36,50,000/- came to be



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registered, whereas the other agreement of sale between the same parties, recording the total consideration of Rs.56,00,000/-, remained unregistered. It is submitted that, since the agreement recording the consideration of Rs.56,00,000/-, was neither pleaded nor disclosed in the plaint, the same was required to be brought on record, thereby necessitating an amendment to the written statement.

3. Learned counsel appearing for the respondent submits that the written statement was filed on 04.02.2023, whereas the present application seeking amendment came to be filed on 26.07.2023, at the stage of cross-examination of PW-1. It is submitted that, unless the petitioner demonstrates that, despite exercising due diligence at the time of filing of the written statement, the pleadings now sought to be introduced by way of amendment could not have been disclosed, the application for amendment cannot be entertained.

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



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5. A prima facie perusal of the documents on record, namely, the two agreements of sale dated 31.08.2020, indicates that both were executed between the same parties on the same date. The registered document referred to in the written statement records the total consideration of Rs.36,50,000/-, whereas the unregistered document sought to be introduced by way of amendment records the total consideration of Rs.56,00,000/-. The affidavit accompanying the application for amendment is conspicuously silent as to why the second agreement, recording the total consideration of Rs.56,00,000/-, was not pleaded in the written statement.

6. It is a settled position of law that an amendment to the pleadings is required to be considered liberally if such amendment is necessary for the complete and effective adjudication of the dispute between the parties, subject, however, to satisfaction of the requirement under the proviso to Order VI Rule 17 of the Code of Civil Procedure. The burden lies on the applicant seeking amendment to establish that, despite exercising due diligence, the facts sought to be



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introduced by way of amendment could not have been raised at the time of filing the written statement.

7. In the present case, the affidavit neither states nor sets out the circumstances demonstrating the exercise of due diligence which necessitated the amendment. In the absence of establishing that the facts sought to be introduced by way of amendment could not have been raised in the written statement despite the exercise of due diligence, the application is hit by the proviso to Order VI Rule 17 of the Code of Civil Procedure. The Trial Court was justified in rejecting the application.

8. This Court finds no error or infirmity in the impugned order. Accordingly, the writ petition stands ***dismissed***.

SD/-
(K. V. ARAVIND)
JUDGE