HC-KAR

NC: 2026:KHC:60595
RP No. 114 of 2026

CNR: KAHC010174422026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE JAYANT BANERJI

REVIEW PETITION NO. 114 OF 2026

BETWEEN:

SRI A.S.SWAMY
S/O L.SHIVANNA,
AGED ABOUT 64 YEARS,
R/AT: ABBUR VILLAGE,
KASABA HOBLI,
CHANNAPATNA TALUK-571 501,
RAMANAGAR DISTRICT.

...PETITIONER

(BY SRI.MAHESH.A.S., ADVOCATE)

AND:

DYAVARASE GOWDA
S/O DYAVE GOWDA,
MAJOR
R/AT: ABBUR VILLAGE,
KASABA HOBLI,
CHANNAPATNA TALUK-571 501,
RAMANAGARA DISTRICT

...RESPONDENT

(RESPONDENT SERVED UNREPRESENTED)

Digitally signed by K G RENUKAMBA
Location: High Court of Karnataka

THIS REVIEW PETITION IS FILED UNDER SECTION 114 READ WITH ORDER 47 RULE 1 OF CIVIL PROCEDURE CODE 1908, PRAYING TO REVIEW PETITION BY WAY OF SETTING ASIDE THE ORDER DATED 21.02.2026 PASSED IN WRIT PETITION BY WAY OF SETTING ASIDE THE ORDER DATED 21.02.2026 PASSED IN WRIT PETITION NO.5845/2026 (GM-CPC), IN THE INTEREST OF JUSTICE AND EQUITY.

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THIS REVIEW PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI

ORAL ORDER

The respondent has been served, but he is remained unrepresented.

2. This review petition is filed seeking review of the order dated 21.02.2026 passed in Writ Petition No. 5845 of 2026. By means of the said order, this Court had directed, in view of the 2025 Karnataka Amendment brought about in Order VIII Rule 1 CPC that forfeits the right of the defendant to file a written statement after 120 days, that the same has to be strictly implemented as the terms therein are mandatory in nature. Accordingly, the petition was dismissed thereby upholding the order dated 23.01.2026 passed in OS No. 294/2025 on IA No.4 on the file of the Additional Civil Judge and JMFC, Channapatna.

3. The counsel for the Review Petitioner has referred to a judgment dated 28.07.2026 passed by the learned Single Judge of this Court in Writ Petition No. 8032/2026 connected

with Writ Petition No. 9372/2026. After considering the provisions of the Karnataka Amendment, 2025 made in Order VIII Rule 1 CPC, this Court has observed in that case as follows:

> *" xxxx xxxx xxxx xxxx*
>
> *159. Consequently, this Court holds that the expression "the defendant shall forfeit the right" and "the Court shall not allow the written statement to be taken on record" cannot be understood as creating an inflexible and absolute prohibition applicable irrespective of facts and circumstances. The said expressions shall instead be construed to mean that ordinarily the Trial Court shall not receive the written statement after expiry of one hundred and twenty days. Departure from the rule shall remain an exception.*
>
> *XX. Parameters Governing Exercise of Judicial Discretion*
>
> *160. Having read down the provision, it becomes necessary to indicate the parameters governing exercise of discretion. Extension beyond one hundred and twenty days shall never be granted routinely. Mere negligence, inadvertence, oversight or administrative convenience shall not constitute sufficient cause. The defendant must establish circumstances which are genuinely exceptional and*

beyond his control. Illustratively prolonged illness; natural calamities; delay in obtaining indispensable public documents; circumstances rendering appearance impossible despite due diligence; or other causes of comparable gravity. The burden shall lie entirely upon the defendant. The Trial Court shall record detailed reasons.

161. Appropriate and realistic costs shall ordinarily be imposed. Repeated adjournments shall not be granted. The discretion shall be exercised only where refusal would result in grave failure of justice. The Trial Court must also consider whether the defendant has acted bona fide and with due diligence throughout the proceedings. Thus, while the legislative mandate prescribing one hundred and twenty days shall ordinarily govern all civil suits, the constitutional obligation of Courts to prevent miscarriage of justice remains preserved in exceptionally rare cases. Such interpretation, in the considered opinion of this Court, simultaneously advances the object of speedy disposal and the constitutional guarantee of fair adjudication. The doctrine of reading down thus enables this Court to preserve the validity of the Amendment Act while ensuring that the salutary principles declared by the Hon'ble Supreme Court in Kailash(supra), Salem Advocate Bar Association(supra), R.N. Jadi, Desh Raj(supra), Shoraj Singh(supra) and Bharat Kalra(supra) continue to guide the exercise of

judicial discretion in the rarest of deserving cases. The operative directions shall accordingly follow.

XXI. Directions to the Trial Courts

162. In order to ensure uniform implementation throughout the State, the following directions are issued:

(i) Every Trial Court shall endeavour to ensure strict adherence to the legislative timeline prescribed under amended third proviso to Order V Rule 1 and third proviso to Rule 1 of Order VIII.

(ii) Applications seeking acceptance of written statements beyond one hundred and twenty days shall be entertained only in exceptional circumstances.

(iii) The Trial Court shall record detailed reasons demonstrating why the case falls within the exceptional category.

(iv) The Trial Court shall consider whether the defendant has acted bona fide, diligently and without intention to protract the proceedings.

(v) Realistic and deterrent costs shall ordinarily accompany every order extending time.

(vi) The discretion recognised by this judgment shall not be exercised mechanically or routinely so as to dilute the legislative object underlying the Amendment Act.

(vii) The Trial Court shall remain conscious that the power preserved by this judgment is an equitable jurisdiction intended only to prevent grave injustice and not to encourage procedural indiscipline."

4. Paragragh-176 can also be noted with benefit, which reads as follows:

176. To ensure uniform implementation of the Amendment Act throughout the State, it is clarified that the statutory period of one hundred and twenty days shall ordinarily be adhered to in every suit. Any departure therefrom shall be permissible only in exceptional and extraordinary circumstances beyond the control of the defendant, upon proof of due diligence, for reasons to be recorded in writing and ordinarily on payment of realistic costs. Mere negligence, inaction, oversight or routine administrative delay shall not constitute sufficient cause. The discretion preserved by this judgment is intended solely to prevent manifest injustice and shall be exercised sparingly, cautiously and only in the rarest of deserving cases, without diluting the legislative mandate of expeditious disposal.

5. In view of the aforesaid, while allowing this review petition, and setting aside the order dated 21.02.2026 passed

in W.P.No.5845/2026, this Court deems fit to remand the matter to the trial Court to take a fresh decision on the aforesaid IA No.4 filed in the OS No.294/2025 after taking into account the guidelines and directions of this Court as noted above.

6. It is made clear that the directions aforesaid shall not be construed as expressing any opinion on the merit of the IA No.4. The trial Court is enjoined to consider the matter afresh and independently in terms of the guidelines in the aforesaid Writ Petition No.8032/2026 connected with Writ Petition No.9372/2026.

8. The original records shall be transmitted to the concerned trial Court, forthwith.

Sd/-
(JAYANT BANERJI)
JUDGE

KGR
List No.: 1 Sl No.: 1