HC-KAR

NC: 2026:KHC:61133
WP No. 25541 of 2025

CNR: KAHC010554732025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 25541 OF 2025 (GM-CPC)

BETWEEN:

1. SRI B A VARADARAJACHAR
S/O ANJANEYACHAR,
AGED ABOUT 64 YEARS,
RESIDING AT NO. 45,
BANASWADI MAIN ROAD,
KRISHNARAJAPURAM HOBLI,
BANGALORE-560043.

...PETITIONER

(BY SRI B.S. VENKATANARAYANA, ADVOCATE)

AND:

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

1. RELIANCE ASSET RECONSTRUCTION COMPANY LTD.,
A COMPANY AS PER THE
COMPANIES ACT, 2013
REGISTERED AS AN ASSET
RECONSTRUCTION COMPANY UNDER
SECTION 3 OF SARFAESI ACT, 2002
HAVING ITS OFFICE AT
RELIANCE CENTER, NORTH WING,
6TH FLOOR, OFF WESTERN EXPRESS HIGHWAY,
SANTACRUZ (EAST),
MUMBAI -400 055.
REPRESENTED BY ITS
MANAGING DIRECTOR.

2. THE LAKSHMI VILAS BANK LTD.,
A BANKING COMPANY WITHIN THE MEANING OF
BANKING REGULATION ACT, 1949
HAVING ITS REGISTERED OFFICE AT
KARUR, TAMIL NADU 639 006
AND HAVING ITS BRANCH AT
KORAMANGALA, NO. 68,
JYOTHI NIVAS COLLEGE ROAD,
5TH BLOCK, KORAMANGALA,
BANGALORE - 560 095.
REPRESENTEDBY ITS BRANCH MANAGER

3. M/S SUJAN PRECISION COMPONENTS
PRIVATE LIMITED
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF THE COMPANIES ACT, 1956
HAVING ITS REGISTERED
OFFICE AT NO. 158,
6TH CROSS, 5TH MAIN,
BOMMASANDRA INDL. AREA,
BANGALORE - 560 099
REPRESENTED BY ITS
MANAGING DIRECTOR
SRI B. S. PADMANABHACHAR

4. SRI B. S. PADMANABHACHAR,
S/O.SRINIVASACHAR. B,
AGED ABOUT 45 YEARS,
RESIDING AT NO. 2,
KALARAVA PARISARA,
19TH CROSS, KASHI MUTT ROAD,
MALLESHWARAM,
BANGALORE 560 055.

5. 5. SMT. BHARATHI PADMANABHACHAR,
W/O B. S. PADMANABHACHAR,
AGED ABOUT 41 YEARS,
RESIDING AT NO. 2,
KALARAVA PARISARA,
19TH CROSS, KASHI MUTT ROAD,

MALLESHWARAM,
BANGALORE - 560 055.

6. SMT.V. KOUSHALYA,
W/O. R.SHARAVANA
AGED ABOUT 49 YEARS,
NO.251,1ST FLOOR,
DODDABANASAWADI MAIN ROAD,
BENGALUIRU-560043.

…RESPONDENTS

(BY SRI S. SWAROOP, ADVOCATE FOR R1;
NOTICE TO R2 TO R6 IS DISPENSED WITH
VIDE ORDER DATED 14.10.2022)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE ORDER DATED 31.07.2025 AS PER ANNEXURE-A PASSED IN O.S. NO. 688/2019 PENDING BEFORE THE COURT OF ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-36) AT BENGALURU.

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

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

ORAL ORDER

1. The present petition is filed impugning the order dated 31.07.2025 passed in O.S. No. 688/2019 on I.A. No. 9, filed under Order VI Rule 17 of the CPC, whereby the application seeking amendment of the written statement was allowed.

2. Learned counsel appearing for the petitioner submits that the suit, instituted in the year 2019, is one for declaration and

injunction. It is submitted that the issue regarding the maintainability of the suit was raised and adjudicated, resulting in the dismissal of the suit. The suit was subsequently restored pursuant to the judgment dated 15.02.2022 passed in R.F.A. No. 421/2020.

2.1 It is further submitted that, upon restoration of the suit, the plaintiff proceeded to lead evidence, and defendant No. 2/applicant partly cross-examined PW.1. At that stage, the application seeking amendment of the written statement was filed, proposing to introduce 42 additional paragraphs.

2.2 Learned counsel further submits that, if permitted, the proposed amendment would alter the nature of the suit. It is contended that the application does not establish satisfaction of the requirements stipulated in the proviso to Order VI Rule 17 of the CPC. The Trial Court, without examining the applicability of the proviso, proceeded to allow the application on the ground that amendments are to be permitted liberally, thereby overlooking the mandatory requirement of the proviso.

3. Per contra, learned counsel appearing for respondent No. 1/applicant submits that the original written statement was filed raising the issue of maintainability, which was accepted by the Trial Court, resulting in the dismissal of the suit. However, the suit was subsequently restored by this Court in R.F.A. No. 421/2020. In view of the restoration, it became necessary to amend the written statement on merits, and accordingly, the application for amendment was filed.

3.1 It is further submitted that the affidavit accompanying the application duly satisfies the requirements of the proviso to Order VI Rule 17 of the CPC. Learned counsel contends that amendments to written statements are to be construed liberally, even where the proposed amendments are inconsistent with or divergent from the stand previously taken. In the circumstances, it is submitted that the impugned order does not warrant interference.

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

5. The suit is one for declaration and permanent injunction. Respondent No. 1/defendant No. 2 filed the written statement on 27.02.2019. It is contended that, as the suit was not maintainable, the written statement was confined to the issue of maintainability. However, upon restoration of the suit, it became necessary to further amend the written statement to respond to the plaint averments.

5.1 Though the submission appears acceptable at first blush, a perusal of the written statement does not indicate that it was confined to the issue of maintainability, with liberty reserved to file a comprehensive written statement in respect of the other plaint averments. Further, when the suit was restored in R.F.A. No. 421/2020, neither was such liberty sought nor was it granted by this Court.

5.2 The grounds urged in the application seeking amendment also do not support the aforesaid contention. The application attributes the omission to inadvertence and delay in collating voluminous documents pertaining to the transactions. It is further submitted that the amendment was sought at the stage of cross-examination of the plaintiffs' witness. Though

paragraph 16.1 of the application refers to the exercise of due diligence, the nature of the due diligence exercised is not set out.

5.3 It is a settled principle of law that amendments to pleadings may be permitted at any stage of the suit to ensure its complete and comprehensive adjudication. It is also well settled that a defendant is entitled to take a contradictory or divergent stand in the written statement, even if such stand is inconsistent with the plaint. However, such liberal consideration is subject to the rigours of the proviso to Order VI Rule 17 of the CPC.

5.4 The proviso mandates that no application for amendment shall be allowed after the commencement of trial unless the Court is satisfied that, despite the exercise of due diligence, the party could not have raised the matter before the commencement of trial.

5.5 The Hon'ble Supreme Court, in ***Basavaraj v. India, (2024) 3 SCC 705***, has categorically held that the proviso to Order VI Rule 17 of the CPC mandates that no application for

amendment shall be allowed after the commencement of trial unless the Court is satisfied that, despite the exercise of due diligence, the party could not have raised the matter before the commencement of trial.

5.6 It is further held that oversight or inadvertence cannot be construed as due diligence and that the burden lies on the party seeking amendment after the commencement of trial to establish that, despite the exercise of due diligence, the amendment could not have been sought earlier.

5.7 Although the affidavit accompanying the application pleads due diligence, it neither states nor establishes the nature of the due diligence exercised and the circumstances in which, despite such diligence, the amendment could not have been sought earlier. Satisfying the requirements of the proviso to Order VI Rule 17 of the CPC is mandatory for permitting an amendment after the commencement of trial.

5.8 It is well settled that the trial commences upon the commencement of recording of the plaintiff's evidence, thereby attracting the proviso to Order VI Rule 17 of the CPC.

5.9 The Trial Court, in the impugned order, without considering the rigours of the proviso to Order VI Rule 17 of the CPC, proceeded on the premise that a liberal approach is to be adopted in permitting amendments to pleadings. In support of its conclusion, reliance was placed on the judgment of the Hon'ble Supreme Court in ***Usha Balashaheb Swami v. Kiran Appaso Swami, AIR 2007 SC 1663***.

5.10 Though the relevant portion of the said judgment has been extracted by the Trial Court, it is evident that the proviso to Order VI Rule 17 of the CPC was not the subject matter of consideration before the Hon'ble Supreme Court. In view of the same, the said judgment is inapplicable to the facts of the present case.

5.11 The reasons assigned by the Trial Court cannot disregard the proviso to Order VI Rule 17 of the CPC. A liberal approach in permitting amendments to pleadings is permissible only when the requirements of the said proviso are satisfied. The conclusion reached by the Trial Court is contrary to the law laid down by the Hon'ble Supreme Court in ***Basavaraj***, referred to supra, and, therefore, cannot be sustained.

6. In that view, the following:

ORDER

i) Writ petition is ***allowed***.

ii) Order dated 31.07.2026 passed in O.S.No.688/2019 is set aside.

iii) I.A.No.9 filed under Order VI Rule 17 of CPC stands rejected.

Sd/-
(K. V. ARAVIND)
JUDGE

VP
List No.: 1 Sl No.: 49