HC-KAR

NC: 2026:KHC:61073
WP No. 32713 of 2026

CNR: KAHC010708642026

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. 32713 OF 2026 (GM-CPC)

BETWEEN:

SMT.C.LEELAVATHI,
WIFE OF SHRI KUNNAIAH,
AGED ABOUT 59 YEARS,
RESIDING AT NO.671,
KOOGU BANDE ROAD E AND F BLOCK,
KUVEMPUNAGARA,
MYSURU - 570 023.

REPRESENTED BY HER
SPECIAL POWER OF ATTORNEY

SHRI KUNNAIAH,
SON OF LATE. SIDDAIAH,
AGED ABOUT 70 YEARS,
RESIDING AT NO.671,
KOOGU BANDE ROAD, E AND F BLOCK,
KUVEMPUNAGARA,
MYSURU - 570 023.

...PETITIONER

(BY SRI. KIRAN M M., ADVOCATE)

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

AND:

SHRI. PALOLI MUHAMMEDALI,
SON OF SHRI KUNHIMUHAMMED,
AGED ABOUT 63 YEARS,

RESIDING AT KOTTILANGADI POST,
MALAPPURAM DISTRICT,
STATE OF KERALA - 676 506.

…RESPONDENT

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO I. TO SET ASIDE THE IMPUGNED ORDER DATED 17-09-2026 IN IA NO.18 AND 19 UNDER SECTION 151 OF CPC TO REOPEN THE CASE AND TO ADDUCE EVIDENCE BY THE RESPONDENT VIDE ANNEXURE - A, PASSED IN O.S. NO.167/2019, ON THE FILE OF THE LEARNED II ADDITIONAL SENIOR CIVIL JUDGE AND CJM AT MYSORE AND ETC.,

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

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

ORAL ORDER

The present petition challenges the order dated 17.09.2026, whereby I.A. Nos.18 and 19 filed by the plaintiff came to be allowed, permitting the plaintiff to adduce further evidence.

2. Learned counsel for the petitioner submits that the suit is one for specific performance. The plaintiff has executed a Power of Attorney in favour of his son, who has been examined as PW.1. It is submitted that PW.1 was extensively cross-examined, during which material evidence was elicited. It is

further submitted that the impugned applications came to be filed only at the stage of arguments on behalf of the defendant.

2.1 It is contended that the Trial Court, without properly examining the grounds urged in I.A. Nos.17, 18 and 19, rejected I.A. No.17 but erroneously allowed I.A. Nos.18 and 19, thereby permitting the plaintiff to adduce further evidence.

3. Considered the submissions made by the learned counsel for the petitioner and perused the material on record.

4. Having regard to the order that this Court proposes to pass, issuance of notice to the respondents is dispensed with.

5. The suit is one for specific performance. The plaintiff executed a Power of Attorney in favour of his son to represent him and give evidence before the Court. Accordingly, the son was examined as PW.1 on behalf of the plaintiff and was subjected to extensive cross-examination. As pleaded, several material admissions were elicited during the course of such cross-examination.

6. It appears that the impugned applications came to be filed when the suit had reached the stage of arguments on behalf of the defendant. The affidavit accompanying I.A. No.17 states that the plaintiff had executed a Power of Attorney in favour of his son as he was not in India at the stage of recording evidence. It is further contended that the aspect of readiness and willingness, being a matter within the personal knowledge of the plaintiff, ought to be spoken to by the plaintiff himself. On that ground, the evidence of the Power of Attorney holder, PW.1, is sought to be discarded.

7. The said application, I.A. No.17, came to be rejected by the Trial Court. I.A. Nos.18 and 19, being consequential in nature, were required to be considered in the light of the grounds urged in I.A. No.17.

8. When PW.1 has already been examined as the Power of Attorney holder on behalf of the plaintiff and subjected to extensive cross-examination, permitting the plaintiff to adduce further evidence at this stage would only enable him to fill up the lacunae pointed out during the course of arguments, which cannot be permitted.

9. Moreover, the dates on which the plaintiff was outside India, the date of his return to India and the circumstances that prevented him from seeking permission to adduce further evidence at the earlier stage are conspicuously absent from the pleadings.

10. The Court is required to exercise caution while permitting a matter to be restored to a stage that has already been concluded. If such applications are permitted to be used as a mechanism to delay the disposal of suits, it would defeat the very object of expeditious adjudication. In the present case, the first attempt appears to have been to discredit the evidence of PW.1, who is the son and Power of Attorney holder of the plaintiff, and thereafter to seek permission for the plaintiff to adduce further evidence.

11. The Trial Court, while permitting further evidence by reopening the stage of recording evidence, has failed to assign reasons as to why the plaintiff could not have adduced such evidence at the appropriate stage. No sufficient grounds have been pleaded explaining the circumstances that prevented the

plaintiff from seeking such permission when the suit was at the stage of recording evidence.

12. *Prima facie*, it appears that the Trial Court has allowed I.A. Nos.18 and 19 without proper application of mind. The Trial Court ought to have considered the reasons and grounds urged in I.A. No.17 while considering the consequential applications in I.A. Nos.18 and 19. The impugned order, insofar as it permits the plaintiff to adduce further evidence, is bereft of adequate reasons.

13. For the aforesaid reasons, this Court is inclined to interfere with the impugned order. Accordingly, the following:

O R D E R

I. The writ petition is ***allowed***.

II. The impugned order dated 17.09.2026 passed by the II Additional Senior Civil Judge and CJM, Mysore, on I.A. Nos.18 and 19 is hereby ***set aside***.

III. I.A. Nos.18 and 19 are ***restored*** to the file of the Trial Court for fresh consideration, in the light of the observations made hereinabove.

IV. Needless to observe that the Trial Court shall undertake the aforesaid exercise after providing an opportunity of hearing to both parties.

Sd/-
(K. V. ARAVIND)
JUDGE

SJK
List No.: 1 Sl No.: 11