HC-KAR

NC: 2026:KHC:64506
WP No. 34196 of 2026

CNR: KAHC010730302026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 34196 OF 2026 (GM-CPC)

BETWEEN:

1. S.M. ANAND,
   S/O. MUNIYAPPA
   AGED ABOUT48 YEARS
   R/AT 1ST MAIN, 1ST CROSS
   MUNESHWARA NAGARA
   KOLAR CITY - 563101.
   PRESENTLY R/AT
   THORADEVADAHALLI
   KASABA HOBLI, KOLAR TALUK 563126.
   WORKING AS PHARMACIST
   CHELUVAMBA HOSPITAL
   MYSURU 570001.

...PETITIONER

(BY SRI. NANJUNDARADHYA B. G., ADVOCATE)

Digitally signed by VIJAYA P
Location: High Court of Karnataka

AND:

1. NARENDRA BABU. S.,
   S/O. K. SONNAPPA,
   AGED ABOUT 40 YEARS
   R/AT NO.1263, NEAR POST OFFICER
   PETECHAMANAHALLI
   KOLARA CITY - 563102

...RESPONDENT

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE JUDGEMENT/ORDER DATED 11.09.2025 PASSED BY THE LEARNED I ADDL. DISTRICT AND SESSIONS JUDGE KOLAR DISMISSING THE MA NO.5/2025 VIDE ANNEXURE-A AND CONSEQUENTLY.

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 impugns the order dated 11.09.2026 passed in M.A. No. 5/2025.

2. Learned counsel appearing for the petitioner submits that the respondent herein instituted a suit for specific performance by furnishing the petitioner's address as Kolar, though the petitioner was residing at Mysore at the relevant point of time. It is submitted that the petitioner could not appear and participate in the proceedings, as summons had not been served upon him.

2.1 It is further submitted that the Trial Court, having erroneously recorded that summons had been duly served, proceeded to place the petitioner ex parte and decree the suit.

2.2 It is submitted that execution proceedings were initiated for enforcement of the decree passed in O.S. No.259/2022, pursuant to which a sale deed came to be executed and the execution proceedings were closed. Upon coming to know of

the decree and the subsequent execution proceedings, the petitioner instituted Misc. No.20/2023 seeking to set aside the judgment and decree passed in O.S. No.259/2022. However, the said proceedings came to be dismissed for non-prosecution by order dated 12.12.2024.

2.3 It is further submitted that, challenging the said order, the petitioner instituted M.A. No.5/2025 seeking restoration of the miscellaneous proceedings and an opportunity to contest the suit by having the ex parte decree set aside. Learned counsel contends that the First Appellate Court, on hyper-technical grounds and without properly appreciating the bona fide reasons assigned for the petitioner's non-appearance, erroneously rejected the appeal.

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

4. The suit in O.S. No.259/2022 came to be instituted seeking the relief of specific performance and a direction to

execute the sale deed. The suit was decreed ex parte on 26.08.2022, placing the petitioner ex parte.

5. It is contended that summons had not been served upon the petitioner, resulting in his being placed ex parte in the suit. It is pleaded that the petitioner was residing at Mysore, whereas summons was issued to the address at Kolar and, therefore, could not be served. Prima facie, the said contention is not acceptable. The address furnished by the petitioner in the present writ petition is also that of Kolar.

6. Furthermore, execution proceedings were initiated pursuant to the decree, resulting in execution of the sale deed, and the execution proceedings have since been closed. In Misc. No.20/2023, the petitioner remained absent on more than four occasions without availing the opportunities granted to him. The Trial Court, having no other alternative, dismissed the application for non-prosecution.

7. The First Appellate Court, in M.A. No.5/2025, having regard to the petitioner's conduct in not participating in the suit proceedings and his failure to diligently prosecute the

miscellaneous petition, upheld the order dismissing the miscellaneous petition for non-prosecution.

8. This Court, upon consideration of the submissions made and the reasons assigned by the Trial Court and the First Appellate Court in the impugned orders, is of the opinion that no prima facie ground warranting interference is made out. No compelling circumstances have been demonstrated to explain the petitioner's failure either to participate in the suit proceedings or to diligently prosecute the miscellaneous petition. The opportunities granted to the petitioner have remained unavailed.

9. When the petitioner has failed to avail the opportunities granted and prosecute the proceedings with due diligence, the impugned orders do not warrant interference by this Court.

Accordingly, the writ petition stands ***dismissed***.

Sd/-
(K. V. ARAVIND)
JUDGE

VP/List No.: 1 Sl No.: 23