HC-KAR

NC: 2026:KHC:60668
WP No. 33054 of 2026

CNR: KAHC010732252026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

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

WRIT PETITION NO. 33054 OF 2026 (GM-CPC)

BETWEEN:

1. SMT. INDIRA T.,
   AGED ABOUT 56 YEARS
   WIFE OF RAMESH
   RESDIING AT NO. 31/7,
   3RD CROSS, FCI LAYOUT,
   DEEPANJALI NAGAR
   NEAR BHEL MYSORE ROAD
   BENGALURU 560 026

...PETITIONER

(BY SRI JAYASIMHA K. P., ADVOCATE)

AND:

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

1. SRI SIDDAIAH
   AGED ABOUT 62 YEARS
   SON OF LATE JAWARAIAH
   RESIDING AT SOGALA VILLAGE
   VIRUPAKSHIPURA HOBLI
   CJHANNAPATNA TALUK
   RAMANAGARA 562138

...RESPONDENT

(BY VINAY KUMAR G.S., ADVOCATE FOR
SRI V.F. KUMBAR, ADVOCATE FOR C/R)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED. 12-08-2026, IN O.S. NO.19/2021.

IT IS PASSED BY THE HON'BLE COURT OF THE IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE AND J.M.F.C AT CHANNAPATANA. VIDE ANNEXURE-A AND PERMIT TO THE PETITIONER TO AMENDING HER WRITTEN STATEMENT AS PRAYED THE SAID APPLICATION.

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 is filed impugning the order dated 12.08.2026 passed on I.A. No.10, rejecting the application filed under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, seeking amendment of the written statement to incorporate a counterclaim.

2. Learned counsel for the petitioner submits that no written statement was filed within the prescribed time and that the counterclaim was not raised due to oversight.

2.1 It is further submitted that, in order to avoid multiplicity of proceedings and ensure complete adjudication of the dispute, the proposed amendment ought to be considered liberally.

3. *Per contra*, learned counsel appearing for the respondent submits that the suit is of the year 2021 and that the application for amendment was filed when the suit had been set down for final arguments. It is contended that the application is barred by the proviso to Order VI Rule 17 of the Code of Civil Procedure.

3.1 Learned counsel further submits that a counterclaim cannot be introduced after the framing of issues and, particularly, after the commencement of evidence. In support of the said submissions, reliance is placed on the judgment of the Hon'ble Supreme Court in ***Ashok Kumar Kalra v. Surendra Agnihotri, (2020) 2 SCC 394***.

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

5. The suit, instituted in the year 2021, is one for cancellation of a sale deed. The petitioner has filed a written statement, issues have been framed, and evidence has been recorded and documents marked. When the suit had reached the stage of final arguments, the petitioner filed the impugned

application seeking amendment of the written statement to incorporate a counterclaim.

6. The trial Court, by the impugned order, rejected the application by placing reliance on the judgment of the Hon'ble Supreme Court in ***Ashok Kumar Kalra v. Surendra Agnihotri*** (supra). In the said judgment, the Hon'ble Supreme Court has held that a counterclaim ought to be filed along with the written statement or, at the latest, before the framing of issues, subject to the outer limit of commencement of the plaintiff's evidence.

7. The Hon'ble Supreme Court, in ***Basavaraj v. Indira and Others, (2024) 3 SCC 705***, while considering the effect of the proviso to Order VI Rule 17 of the Code of Civil Procedure, held that no application for amendment shall be allowed after commencement of the trial unless the Court concludes that, despite the exercise of due diligence, the party could not have raised the matter before commencement of the trial. It is further held that the burden lies on the party seeking amendment after commencement of the trial to establish that,

despite due diligence, the amendment could not have been sought earlier. The right to seek amendment is not absolute.

8. A perusal of the application reveals that no attempt has been made to demonstrate the due diligence exercised by the petitioner or to explain why the proposed amendment could not have been sought at the earliest point of time. The application is, therefore, clearly barred by the proviso to Order VI Rule 17 of the Code of Civil Procedure, having been filed after commencement of the trial.

9. This Court finds no infirmity in the reasons assigned by the trial Court. For the additional reasons stated hereinabove, this Court is not inclined to entertain the petition. No grounds are made out for interference.

The writ petition is accordingly ***dismissed***.

Sd/-
(K. V. ARAVIND)
JUDGE

VBS
List No.: 1 Sl No.: 37