HC-KAR

NC: 2026:KHC:65582
WP No. 34663 of 2026

CNR: KAHC010757992026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 34663 OF 2026 (GM-CPC)

BETWEEN:

1. SRI. G. NARAYANA SWAMY,
   S/O. LATE GOVINDARAJU,
   AGED ABOUT 50 YEARS,

2. SMT. KALA N.,
   D/O. LATE GOVINDARAJU,
   AGED ABOUT 40 YEARS.

3. SMT. BHUVANESHWARI N.,
   D/O. LATE GOVINDARAJU,
   AGED ABOUT 37 YEARS.

   ALL ARE RESIDING AT NO.92,
   JANATHA COLONY,
   NEAR RAILWAY GATE,
   HORAMAVU AGARA,
   HORAMAVU POST,
   BENGALURU - 560 043.

...PETITIONERS

(BY SRI BHADRINATH, ADVOCATE FOR
SRI NARAYANA SWAMY P.M., ADVOCATE)

Digitally signed by VIJAYA P
Location: High Court of Karnataka

AND:

1. SRI. K. M. BHOJARAJ SHETTY,
   S/O. LATE MAHABALA SHETTY,
   AGED ABOUT 53 YEARS,

R/AT NO.314, FLAT NO.002,
6TH A MAIN, OPP GOVERNMENT LIBRARY,
KALYANA NAGAR
BANGALORE - 560 043.

…RESPONDENT

(VIDE ORDER DATED 24.11.2026 NOTICE TO RESPONDENT IS DISPENSED WITH)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE COMMON ORDER DATED 07.09.2026 PASSED BY THE XI ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY (CCH-8) IN O.S.NO.4555/2021 ON L.A. NOS.12 AND 13 (ANNEXURE-A).

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 assails the order dated 07.09.2026 passed in O.S. No.4555/2021, whereby I.A. Nos.12 and 13, filed under Section 151 and Order XVIII Rule 17 of the CPC, respectively, seeking to reopen the stage of defendants' evidence and to permit the defendants to adduce evidence, came to be rejected.

2. Learned counsel appearing for the petitioners submits that the suit was instituted against the petitioners' father seeking the relief of injunction. During the pendency of the suit,

the petitioners' father passed away, pursuant to which the petitioners were brought on record as his legal representatives.

2.1 It is submitted that, having regard to the fact that the cause of action pleaded in the suit was against the petitioners' father, the petitioners did not adduce evidence on behalf of the defendants. However, upon examining the plaint instituted against their deceased father, the petitioners realised the necessity of adducing evidence and, accordingly, filed applications seeking permission to lead defendants' evidence.

2.2 It is further submitted that the failure to adduce evidence was on account of the petitioners' understanding that the cause of action pleaded in the suit did not survive against them. It is contended that denial of an opportunity to adduce evidence would deprive the petitioners of a fair opportunity to establish their defence.

2.3 Learned counsel further submits that any delay occasioned or prejudice caused to the other side can be adequately compensated by imposing costs.

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

4. A perusal of the pleadings and the grounds urged in the petition warrants consideration of the petitioners' case. If an opportunity is to be afforded to the respondent upon issuance of notice, the proceedings before the Trial Court would necessarily have to be stayed, which would, in turn, cause prejudice to the respondent/plaintiff. However, if the petition is allowed subject to appropriate conditions, any prejudice that may be caused to the plaintiff can be adequately compensated. In that view of the matter, issuance of notice to the respondent is dispensed with.

5. The suit is one for injunction, and the cause of action pleaded in the plaint is against the deceased father of the petitioners. The petitioners were subsequently brought on record as his legal representatives. The applications filed by the petitioners explain the circumstances in which the defendants' evidence could not be adduced when the matter was posted for that purpose. The objections filed by the plaintiff indicate that

several opportunities were granted to the defendants to lead their evidence.

6. No doubt, the number of opportunities granted is substantial. However, the time interval between the dates on which such opportunities were granted is also a relevant consideration. The object of granting an opportunity to adduce evidence is to facilitate adjudication on merits and not merely to count the number of opportunities afforded. While the number of opportunities granted is a relevant factor, the reasonableness of the time intervals between successive adjournments is equally material.

7. Having regard to the intervals between the dates of adjournment, which the Trial Court has treated as multiple opportunities, this Court is of the considered view that the petitioners deserve one more opportunity to adduce evidence. However, such opportunity would be subject to appropriate conditions so as to adequately compensate the prejudice likely to be caused to the plaintiff.

8. In view of the above, the following :

O R D E R

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

II. The order dated 07.09.2026 passed in O.S. No.4555/2021 is hereby ***set aside***.

III. I.A. Nos.12 and 13 filed under Section 151 and Order XVIII Rule 17 of the CPC are hereby ***allowed***, permitting the petitioners/defendants to adduce evidence.

IV. Having regard to the fact that the suit is of the year 2021, the examination-in-chief of the defendants shall be completed within one week from the next date of hearing before the Trial Court.

V. The defendants' witnesses shall remain present before the Trial Court on the dates fixed for their cross-examination by the plaintiff. The Trial Court shall ensure that unnecessary adjournments are avoided. The petitioners shall extend their full co-operation to facilitate the cross-examination of the defendants' witnesses by the plaintiff.

VI. The aforesaid opportunity is subject to payment of costs of Rs.25,000/- to the plaintiff on or before the next date of hearing before the Trial Court.

Sd/-
(K. V. ARAVIND)
JUDGE

VP
List No.: 2 Sl No.: 10