HC-KAR

NC: 2026:KHC:64783
WP No. 35694 of 2026

CNR: KAHC010790122026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 35694 OF 2026 (GM-CPC)

BETWEEN:

1. MR. LINGAPPA POOJARY,
   S/O LATE BIRMU POOJARY,
   AGED 63 YEARS,

2. MRS. JANAKI,
   W/O LINGAPPA POOJARY
   AGED 60 YEARS,

   BOTH PETITIONERS ARE
   RESIDING AT BIRMAROTTU MANE,
   VALPADY POST AND VILLAGE,
   MOODBIDRI TALUK, D.K-574236

...PETITIONERS

Digitally signed by VIJAYA P
Location: High Court of Karnataka

(BY SRI AKSHAY KUMAR JAIN, ADVOCATE(VC))

AND:

1. MR. NAVEEN,
   S/O LATE NARAYANA POOJARY
   NEE SHEENA POOJARY,
   AGED ABOUT 28 YEARS,
   R/AT DOOR NO.3-171,
   JOGOTTU DARKHAS HOUSE,
   VALPADY VILLAGE, MOODBIDRI TALUK,
   D.K.- 574236

...RESPONDENT

(BY SMT. AKSHATHA DEVADIGA, ADVOCATE FOR C/R))

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 28.08.2026 PASSED ON I.A. NO.4/2026 IN O.S. NO.115/2025 THE LEARNED CIVIL JUDGE AND JMFC, MOODBIDRI VIDE ANNEXURE-E. DIRECTING THE LEARNED CIVIL JUDGE AND JMFC, MOODBIDRI ALLOW I.A. NO.4/2026 IN O.S. NO.115/2025 VIDE ANNEXURE- B 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 assails the order dated 28.08.2026, whereby the application seeking acceptance of the belated written statement came to be rejected.

2. Learned counsel appearing for the petitioners submits that the suit is one for partition. It is contended that, owing to the ill-health of the petitioners, the written statement could not be filed within the stipulated time. It is further submitted that the application seeking acceptance of the belated written statement has been erroneously rejected.

2.1 Learned counsel submits that denial of an opportunity to the petitioners to place their defence on record would cause prejudice to their rights and may also have a bearing on the

determination of the respective shares of the parties in the suit schedule properties.

3. *Per contra*, learned counsel appearing for the caveator-respondent submits that there is a delay nearly one year in seeking permission to file the written statement. It is contended that the reasons assigned for the delay are wholly unacceptable. A mere assertion that the petitioners were unwell would not, by itself, constitute sufficient justification for explaining the delay of more than one year.

3.1 It is further submitted that the failure to file the written statement despite service of summons is a deliberate attempt to protract the proceedings in the suit.

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

5. The suit is one for partition. The impugned order rejects the petitioners' request for permission to file the belated written statement. This Court, in the case of ***Shri Basavaraj S. v. State of Karnataka***, in ***W.P. No.8032/2026***, has held

that the requirement of filing the written statement within 120 days is not mandatory and that the time for filing the same is extendable for reasons to be recorded by the Court.

6. In the present case, the reasons assigned for the failure to file the written statement within the stipulated period are vague and unsatisfactory. However, merely on that ground, the petitioners cannot be denied an opportunity to file their written statement, thereby depriving them of an opportunity to raise their otherwise available and legally sustainable defence.

7. Undoubtedly, permitting the petitioners to file the written statement at this belated stage would cause inconvenience and prejudice to the plaintiff. However, such prejudice can be adequately compensated by imposing appropriate costs.

8. In that view of the matter, the following :

ORDER

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

II. The impugned order dated 28.08.2026 is ***set aside***.

III. I.A. No.4 is ***allowed***, permitting the petitioners to file the written statement.

IV. It is submitted that the written statement has already been filed along with the application. The Trial Court is directed to take the written statement on record, subject to payment of costs of Rs.10,000/- to the plaintiff.

V. The written statement shall be taken on record upon production of proof of payment of the costs as ordered hereinabove.

Sd/-
(K. V. ARAVIND)
JUDGE

DDU
List No.: 1 Sl No.: 32