



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 8TH DAY OF JUNE, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.4135/2022 (GM-CPC)

BETWEEN:

1. SRI. P. RAKESH
S/O SRI. PADMANABHAIHAH
AGED ABOUT 43 YEARS.
2. SRI. P. MANJUNATH
SON OF PADMANABHAIHAH
AGED ABOUT 36 YEARS.

BOTH ARE R/AT THANISANDRA
VILLAGE, ARABIC COLLEGE POST
K.R. PURAM HOBLI
BANGALORE 560045.

...PETITIONERS

(BY SRI. JIHO JOSEPH, ADV., FOR
SRI. DEVENDRA GOWDA R.R. ADV.,)



AND:

1. SRI. M. VENUGOPAL
S/O MUNIVENKATAPPA
AGED ABOUT 69 YEARS.
2. SMT. V. KRISHNAVENI
WIFE OF SRI. VENUGOPAL
AGED ABOUT 54 YEARS.

BOTH ARE R/AT NO.6
(OLD NO.1338)
DODDAMMA LAYOUT



MANORAYANA PALYA
R.T. NAGAR POST
BANGALORE 560003.

...RESPONDENTS

(BY SRI. CHANDRASHEKAR PATIL, ADV., FOR R1 & R2)

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 09.02.2021 (ANNEXURE-A) ON THE APPLICATION IA FILED U/S 151 OF CPC BY THE DEFENDANTS IN O.S.NO.25300/2013 BY THE LEARNED LXXIII ADDL. CITY CIVIL AND SESSIONS JUDGE, MAYOHALL UNIT, BANGALORE (CCH-74) & ETC.

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This petition is filed challenging the order dated 09.02.2022 passed in O.S.No.25300/2013 by the LXXIII Additional City Civil and Sessions Judge, Maho Hall Unit, Bengaluru (CCH-74) (for short, 'the Trial Court').

2. Sri.Jiho Joseph, learned counsel for Sri.Devendra Gowda, learned counsel for the petitioners submits that the respondents herein have filed a suit for declaration to declare that the judgment and decree in



O.S.No.17830/2005 is null and void and not binding on the plaintiffs. It is submitted that the petitioners could not file the written statement in the said suit. Thereafter, an application was moved seeking to recall the order dated 12.06.2014 and sought for permission to file a written statement, which came to be rejected by the Trial Court. It is further submitted that the petitioners ought to have filed the written statement within a reasonable time. However, they could not file it for the reasons explained in the affidavit accompanying the application. It is also submitted that the petitioners are ready to pay a cost of Rs.50,000/- to the plaintiffs for the inconvenience caused to the them if one opportunity is provided to the petitioners to file the written statement. To substantiate the same, the learned counsel for the petitioners has filed a memo agreeing to pay the aforesaid cost.

3. *Per contra*, Sri.Dhandrashekar Patil, learned counsel for the respondents-plaintiffs supports the impugned order of the Trial Court and submits that an



incorrect statement has been made on oath while seeking to condone the delay of more than 8 years which has been appreciated by the Trial Court and the application has been rejected. There is absolutely no merit in the contentions advanced on the other side. It is submitted that the suit is of the year 2013 and the plaintiffs are dragging on the matter on one or the other reason. Hence, he seeks to dismiss the petition with exemplary costs.

4. I have heard the arguments of the learned counsel for the petitioners, learned counsel for the respondents and meticulously perused the material available on record.

5. The respondents herein have filed O.S.No.25300/2013 seeking the relief of declaration that the judgment and decree in O.S.No.17830/2005 dated 20.04.2009 is null and void and not binding on the plaintiffs. In the said suit, the petitioners were served



with the summons, they entered appearance and sought time to file the written statement. The material on record indicates that the written statement was not filed and the Trial Court closed the right to file the written statement vide order dated 12.06.2014 and posted the matter for evidence of the plaintiffs. Thereafter, the petitioners-defendants filed an application under Section 151 of the Code of Civil Procedure, 1908, seeking to recall the order dated 12.06.2014 and sought permission to file the written statement on the ground that their mother and later their father-defendant No.3 died during the pendency of the said case and hence, they could not file the written statement. The Trial Court, under the impugned order assigned detailed reasons and rejected the said application. It is to be noticed that the defendants have not assigned any detailed reason for not filing the written statement for more than 8 years. It is also to be noticed that the suit filed by the respondents herein is for declaration that the judgment and decree in



O.S.No.17830/2005 is null and void and is not binding on them on the ground that the plaintiffs were not parties in the said suit and the said suit was for partition between the family members.

6. Be that as it may, the petitioners herein being the family members intend to defend the said suit on the ground that the suit properties are the joint family properties. In my considered view, the right to defend the suit is a valuable right available to the parties to the proceedings and if such an opportunity is provided to the defendants to file the written statement, ends of justice would be met. This Court also cannot ignore the fact that that the suit is of the year 2013 and hence, the petition is required to be allowed on terms by directing the Trial Court to dispose of the suit at the earliest and by imposing cost on the petitioners;.

7. For the aforementioned reasons, I proceed to pass the following:



ORDER

- i) The writ petition is allowed.
- ii) The impugned order dated 09.02.2022 passed in O.S.No.25300/2013 is set aside. Consequently, the application filed along with the written statement is allowed.
- iii) The Trial Court shall take the written statement on record subject to the petitioners paying the cost of Rs.50,000/- to the plaintiffs on the next date of hearing i.e 16.06.2026, without fail. If the said cost is not paid on 16.06.2026, the order dated 09.02.2022 would stand revived.
- iv) The Trial Court shall regulate its proceedings by permitting the petitioners to cross examine PW-1.
- v) The Trial Court shall endeavor to dispose of the suit as early as possible not later than 10 months from 16.06.2026.
- vi) The parties to the proceedings shall co-operate for early disposal of the suit.



8. In view of the disposal of the petition, the pending interlocutory application does not survive and is accordingly disposed of.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 2 SI No.: 3