



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 21 OF 2025 (GM-CPC)

BETWEEN:

1. MRS. PAVANA DIBBUR
D/O MR. DIBBUR KUMAR,
AGED ABOUT 47 YEARS,
R/AT FLAT NO.528,
5TH CROSS, HMT LAYOUT,
R T NAGAR,
BENGALURU-560032

...PETITIONER

(BY SRI. VISHWAS S. REDDY., ADVOCATE)

AND:

1. M/S ALLIANCE BUSINESS SCHOOL
ALLIANCE UNIVERSITY-CENTRAL CAMPUS,
CHIKKAHADAGE CROSS,
CHANDAPURA-ANEKAL MAIN ROAD,
BENGALURU, KARNATAKA-562106
REP. BY ITS DIRECTOR
ABHAY CHEBBI S/O. G.B.CHEBBI





2. MADHUKAR G ANGUR
S/O G B ANGUR,
AGED ABOUT 65 YEARS,
R/AT NO.48/A, IST CROSS,
17TH MAIN, BTM LAYOUT,
IST STAGE,
BENGALURU-560068

3. N RAMAKRISHNA
S/O R NARAYANA REDDY,
AGED ABOUT 55 YEARS,
R/AT GUDDAHATTI VILLAGE,
ATTIBELE HOBLI,
ANEKAL TALUK,
BENGALURU-562107

...RESPONDENTS

(BY SRI.CYRIL PRASAD PAIS, ADVOCATE FOR C/R1)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 19.11.2024, PASSED ON I.A.NO.8 UNDER SECTION 151 OF CODE OF CIVIL PROCEDURE BY THE PRINCIPAL SENIOR CIVIL JUDGE AND JMFC AT ANEKAL, IN O.S.NO.317/2018 ANNEXURE-F AND DIRECT THE TRIAL COURT TO TAKE THE WRITTEN STATEMENT (ANNEXURE-C) ON RECORD AND ETC.,

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



CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

This petition was filed by defendant No.3 in O.S.No.317/2018 is directed against the impugned order dated 19.11.2024, whereby the application-I.A.No.8 filed by the petitioner/defendant No.3 under Section 151 of the CPC for permission to file written statement was rejected by the trial Court.

2. Heard learned counsel for the petitioner, learned counsel for respondent No.1 and perused the material on record.

3. For the order proposed, notice to respondent Nos.2 and 3 is dispensed with.

4. A perusal of the material on record will indicate that respondent No.1/plaintiff initially instituted a suit against respondent Nos.2 and 3 for declaration, permanent injunction and other reliefs in relation to the suit schedule immovable property. The petitioner, who was initially not arrayed as a party defendant to the suit, was subsequently impleaded at the



instance of the plaintiff in the year 2022 and the matter was posted on 11.01.2023 for the petitioner to file her written statement. But since the petitioner did not file her written statement, the same was taken as 'NIL' and the matter was adjourned upto 01.10.2024, on which date, the petitioner filed the instant I.A.No.8 for permission to file the written statement by recalling the order dated 11.01.2023. The said application having been opposed by the plaintiff, the trial Court proceeded to pass the impugned order rejecting the application, aggrieved by which, the petitioner is before this Court by way of the present petition.

5. A perusal of the impugned order will indicate that the trial Court has taken into account the conduct of the petitioner for the purpose of rejecting the application by holding that the petitioner had knowledge of the proceedings and that neither valid nor sufficient ground had been made out by the petitioner for the purpose of seeking permission to file a written statement. In this context, the trial Court failed to consider and appreciate the affidavit filed in support of the application, which reads as under:



"AFFIDAVIT

*I, **Mrs. Pavana Dibbur** D/o Mr.Dibbur Kumar, Aged about 47 years, R/at. Flat No.528, 5th Cross, HMT Layout, R.T.Nagar, Benagluru-560032, today at Anekal, do hereby solemnly affirm and state on oath as follows:*

1. I submit that, I am the Defendant no.3 in the above case. I am well conversant with the facts and circumstances of the case. Hence I am swearing to this affidavit.

2. I submit that, due to the shock of my husbands death due to murder, I had gone into depression. I further submit that, I could not focus at all the things at once as my main priority was to secure my family's safety from others.

3. I submit that, due to the above said reason, I could not pursue this case with my advocate in time and follow up the case.

4. I submit that, apart from the sale deed, I did not have any documents to be provided to my advocate for preparing of the written statement. Therefore, it took time for me to procure the documents. After procuring the documents I met advocate and gave all information and documents to prepare the Written Statement. Hence I could not file the written statement in time.

Wherefore I pray this Hon'ble Court be pleased to allow my application and permit me to file the written Statement.

*I, **Mrs. Pavana Dibbur**, the Defendant No.3 herein, do hereby declare that this is my name and signature and the contents of this affidavit in paras 1 to 4 are true and correct to the best of our knowledge, information and belief."*



6. As can be seen from the aforesaid affidavit filed by the petitioner in support of the application, she has categorically stated that on account of the demise of her husband, she underwent the psychological issues and was in depression and could not secure necessary documents which would enable her to give instructions to her counsel to prepare and file the written statement. The petitioner also contended that since the accused in the criminal case, which was filed due to the demise of her husband, was enlarged on bail which also created a psychological fear in the mind of the petitioner, she could not approach the advocate and ensure that the written statement is filed within the stipulated time frame.

7. In my considered opinion, the various reasons and grounds assigned by the petitioner in the affidavit in support of the application clearly constitute valid and sufficient grounds for the purpose of condoning the delay on the part of the petitioner in filing the written statement.

8. In this context, it is also significant to note that the suit being one for declaration, permanent injunction, possession etc., in relation to the immovable property, the



valuable proprietary and possessory rights of the parties are involved in the suit, which necessitate granting one more opportunity in favour of the petitioner to file her written statement and contest the suit on merits.

9. Under these circumstances, I am of the considered opinion that non-grant of permission in favour of the petitioner to file written statement has clearly occasioned failure of justice warranting interference by this Court in the present petition and consequently, I deemed it just and proper to adopt justice oriented approach and set aside the impugned order and allow I.A.No.8 by imposing certain conditions upon the petitioner to compensate the plaintiff for the delay in filing the written statement.

10. In the result, the following:

ORDER

- i. The petition is hereby ***allowed***.
- ii. The impugned order dated 19.11.2024 passed on I.A.No.8 in O.S.No.317/2018 by the Prl. Senior Civil Judge and JMFC at Anekal is hereby set aside.



- iii. I.A.No.8 filed by the petitioner stands allowed subject to the petitioner paying Rs.1,00,000/- towards cost to respondent No.1/plaintiff on or before 30th April, 2026 and the written statement filed by the petitioner is directed to be received on record.
- iv. The trial Court is directed to frame additional issues, if any, and proceed further in the matter and dispose of the suit as expeditiously as possible and within a period of three (03) months from the date of receipt of copy of this order.
- v. Liberty is reserved in favour of the petitioner to cross-examine PW1 and also adduce evidence in support of her defence on the date to be fixed by the trial Court without seeking adjournment under any circumstances whatsoever.
- vi. The petitioner is hereby directed to co-operate with the trial Court for expeditious disposal of the suit.
- vii. All rival contentions on all aspects of the matter are kept open and no opinion is



expressed on the merits/demerits of the
rival contentions.

**Sd/-
(S.R.KRISHNA KUMAR)
JUDGE**

VM
List No.: 1 Sl No.: 8