



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE JAYANT BANERJI

WRIT PETITION NO. 5374 OF 2026 (GM-CPC)

BETWEEN:

KUMARA
S/O LATE DEVE GOWDA
AGED ABOUT 54 YEARS
249, KAMANAKERE HUNDI VILLAGE
KASABA HOBLI,
MYSORE TALUK – 570 008

...PETITIONER

(BY SRI. SUNEEL S. NARAYAN, ADVOCATE)

AND:

SURENDRA K
S/O LATE KANTHARAJ
AGED ABOUT 73 YEARS
R/AT NO.4237, 2ND PHASE,
VIJAYANAGARA 4TH STAGE,
NEAR KBL ENCLAVE
MADDUR TALUK – 570 032

...RESPONDENT

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH / SET ASIDE THE ORDER DATED 12.01.2026 ON IA NO.VII PASSED IN OS NO.1293/2025 BEFORE THE PRL. CIVIL JUDGE AND JMFC AT MYSORE, AT ANNEX-C AND IN TURN ALLOW THE APPLICATION i.e., I.A NO.7 AT ANNEX-B.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI





ORAL ORDER

Heard the learned counsel for the petitioner.

2. This petition has been filed seeking the following relief:

"Issue a Writ of certiorari, or any other writ, order or direction of similar nature to quash/set aside the Order dated:12/01/2026 on I.A.No.VII passed in O.S.No.1293/2025 before the Prl.Civil judge & JMFC At Mysore, at Annexure-'C' and in turn allow the application i.e., IA No.7 at Annexure-'B'."

3. The order under challenge is the one passed on I.A No.VII moved by the petitioner who is the defendant in a suit for declaration and injunction. By means of the aforesaid I.A, inherent powers of the Court are sought to be invoked to enable filing of a written statement that was admittedly filed more than 120 days after the date of service of summons. The learned VIII Additional Civil Judge and J.M.F.C., Mysuru has in the impugned order of 12.01.2026 relied upon the 2025 Karnataka Amendment in Order VIII Rule 1 CPC, which inserts a third proviso in the aforesaid Rule which mandates that after the expiry of 120 days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken



on record. The learned trial Judge has done just that, that is to say he has relied upon the aforesaid provision to reject the I.A. In this view of the matter, the Court finds no error in the impugned order that would warrant its setting aside.

4. Be that as it may, the right of the petitioner to cross-examine witnesses and to make his arguments is not taken away as held by the Supreme Court in the case of ***Modula India vs Kamakshya Singh Deo***¹, subject to certain safeguards.

5. For the reasons aforesaid, interference in the aforesaid impugned order is not permissible. The petition is therefore dismissed.

6. The Registry of this Court is directed to communicate this order to the concerned Trial Courts within fifteen days from today so that it can be placed on the record.

Sd/-
(JAYANT BANERJI)
JUDGE

KG

¹ (1988) 4 SCC 619