



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 24TH DAY OF FEBRUARY, 2026
PRESENT
THE HON'BLE MRS. JUSTICE ANU SIVARAMAN
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
REGULAR FIRST APPEAL NO.295/2025 (DEC)

BETWEEN:

MR. NARINDER KHARBANDA
S/O LATE NAND KISHORE KHARBANDA
AGED ABOUT 68 YEARS
RESIDING AT 1ST FLOOR
BEARING CORPORATION NO.234
BINNA MANGALA LAYOUT
7TH CROSS CMH ROAD
INDIRANAGAR I STAGE
BENGALURU 560038.

...APPELLANT

(BY SRI. SURESH S. LOKRE, SR. ADV., FOR
SMT. NIDHI M. PATIL, ADV.,)

AND:

M/S. STERLING EXPRESS PRIVATE LIMITED
REP. BY ITS DIRECTOR
RAKESH KHARBANDA
II FLOOR, 2180/62
AERENS PLAZA, GURUDWARA ROAD
KAROL BAUGH, CENTRAL DELHI
NEW DELHI-110005.

...RESPONDENT

(BY SRI. VISHWANATH SHENDGE, ADV.,)





THIS RFA IS FILED UNDER SECTION 96 R/W ORDER XLI RULE 1 OF CPC., 1908, PRAYING TO CALL FOR THE RECORDS FROM THE FILE OF THE 74TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, MAYO HALL UNIT, BENGALURU (CH-75) IN O.S.NO.26474/2023. SET ASIDE THE JUDGMENT AND DECREE DATED 07.01.2025 PASSED BY THE 74TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, MAYO HALL UNIT, BENGALURU (CH-75) (ANNEXURE-A) & ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON 18.02.2026, COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY **VIJAYKUMAR A. PATIL J.**, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This regular first appeal is filed under Section 96 read with Order XLI Rule 1 of the Code of Civil Procedure, 1908, by the defendant challenging the judgment and decree dated 07.01.2025 passed in O.S.No.26474/2023 by the LXXIV Additional City Civil and Sessions Judge, Mayo Hall Unit, Bengaluru (for short '***the Trial Court***').

2. The parties are referred to as per their ranking before the Trial Court.



3. The brief facts leading to filing of this appeal are that the plaintiff has filed a suit seeking relief of declaration of title of the plaintiff over the suit schedule property, direction to the defendant to deliver the vacant possession of the plaint property to the plaintiff, direct the defendants to pay *mesne* profits calculated at the rate of Rs.10,000/- per day towards damages along with interest at the rate of 18% per annum till the date of realization along with costs of the suit. The appellant filed the written statement denying the plaint averments and sought for dismissal of suit. The plaintiff filed I.A.No.II under Order XII Rule 6(1) read with Section 151 of the CPC seeking for decreeing the suit as per the admission made in the written statement by the defendant. The Trial Court, under the impugned order, allowed I.A.No.II filed by the plaintiff and the suit was decreed. Being aggrieved, the defendant is in appeal.



4. Sri. Suresh S Lokre, learned Senior counsel appearing for Smt. Nidhi M Patil, learned counsel for the appellant submits that the Trial Court has committed a grave error in allowing the application filed by the plaintiff and decreeing the suit. It is submitted that the Trial Court has only relied on Paragraph 20 of the written statement and decreed the suit, which is impermissible in law. It is further submitted that even on plain reading of Paragraph 20 of the written statement, it is clear that the defendant has nowhere admitted the case of the plaintiff. Hence, decreeing the suit on the admission in the written statement without reading the contentions in the written statement in its proper perspective by the Trial court has resulted in passing of the erroneous order. It is also submitted that the defendant in the written statement has denied the case of the plaintiff in its entirety. However, the Trial Court solely considering the averments at Paragraph 20 of the written statement has erroneously decreed the suit, which is impermissible in law.



5. In support of his contentions, he placed reliance on the decision of the Hon'ble Supreme Court in the case of ***Himani Alloys Ltd v TATA Steels Ltd***¹ and submits that the admission should be categorical and if there is any ambiguity with regard to the admission, the same would not fall within the scope of Order XII Rule 6 of the CPC. Hence, he seeks to allow the appeal.

6. *Per Contra*, Sri.Vishwanath Shendge, learned counsel appearing for plaintiff supports the Order of the Trial Court and submits that Paragraph 20 of the written statement clearly shows that the defendant is residing in the schedule premises which belongs to the company and the plaintiff has issued a legal notice to the defendant through his advocate to quit and deliver the vacant possession to the plaintiff on 03.10.2023. It is further stated in the written statement that, the plaintiff after issuance of legal notice passed a board resolution on

¹ (2011) 15 SCC 273



17.10.2023 in the presence of the Directors, that it is resolved that the company shall file an ejectment suit against the defendant staying in the first floor of property owned by Sterling Express Pvt. Limited. It is submitted that the defendant's admission in the written statement with regard to the ownership of the plaintiff, the defendant's possession and the steps taken for eviction are clearly admitted. Hence, based on such admission, the Trial Court has rightly allowed the application and decreed the suit, which does not call for any interference.

7. It is further submitted that defendant has made a false averment in the written statement that the defendant has purchased the property through a registered sale deed dated 25.02.2000. The alleged GPA in favour of the defendant was cancelled by the plaintiffs by issuing a notice and publishing the said notice in the newspaper. It is also submitted that the defendant was an erstwhile employee and is squatting over the property illegally and based on the admission, the suit is decreed.



In support of his contention, he placed reliance on the decision of the Hon'ble Supreme Court in the case of ***Rajeev Ghosh v Satyanarayan Jaiswal***². Hence, he seeks to dismiss the appeal.

8. We have heard the arguments of the learned senior counsel for the defendant, learned counsel for the plaintiff and meticulously perused the material available on record. We have given our anxious consideration to the submissions advanced on both the sides.

9. The point that arises for our consideration is:

"Whether the impugned judgment and decree of the trial Court calls for any interference?"

10. The aforesaid point is answered in the positive for the following reasons:

a) The plaintiff has filed a suit in O.S.No.26474/2023 seeking relief of declaration of title of

² Special Leave Petition (Civil) 9975/2025 dtd 07.04.2025



the plaintiff over the suit schedule property, direction to the defendant to deliver the vacant possession of the plaint property to the plaintiff, direct the defendants to pay mesne profits calculated at the rate of Rs.10,000/- per day towards damages along with interest at the rate of 18% per annum till the date of realization along with the cost of the suit. The defendant filed a detailed written statement denying the plaint averments and sought for dismissal of suit. The plaintiff filed an I.A.No.II under Order XII Rule 6(1) read with Section 151 of the CPC seeking for decreeing the suit as per the admission made in the written statement by the defendant. The Trial Court under the impugned order allowed I.A.No.II filed by the plaintiff and the suit was decreed.

b) The Trial Court under the impugned order has relied on Paragraph 20 of the written statement and held that there is admission on part of the defendant in the suit, as the defendant acknowledged and confessed the fact that he is residing in the suit schedule property that is



owned by the plaintiff and also acknowledged the service of legal notice and his authority and the said admission in the written statement is convincing in the light of the facts pleaded. The Trial Court on the ground that the defendant in the written statement has confessed to the ownership of the plaintiff over the suit schedule property, decreed the suit. In our considered view, the Trial Court has committed grave error in reading Paragraph 20 of the written statement in its proper perspective. It is to be observed that the written statement or the defense raised by the other side to the plaint is required to be read in its entirety.

c) The defendant, in Paragraphs 1,2 and 3 of the written statement has stated that the suit of the plaintiff is not maintainable either in law or on facts. The suit is misconceived, devoid of merit, motivated and filed with suppression of facts and the plaintiff is not entitled to any relief at the hands of the Court.



d) Paragraphs 4 to 15 of the written statement are denial of the averments made in the plaint. In paragraph 16 of the written statement, the defendant has averred that the notarized GPA executed by Rakesh Kharbanda, who is the Director of M/s Sterling Express Ltd. in favour of the defendant to do all acts and execute or cause to be done and executed all the following acts, deeds and things in connection with the company.

e) In Paragraphs 17 to 19, it is further averred that the defendant has purchased the property through a registered sale deed dated 25.02.2000 and he is looking after the schedule property in all respects.

f) However, in Paragraph 20 of the written statement, it is stated that the defendant is residing at the schedule premises, it belonged to the company and the plaintiff has issued legal notice through his advocate. It further contains the averments with regard to Board resolution that the company shall file a suit of ejectment



against the defendant staying in the first floor of the property owned by the company. The last sentence of the said paragraph indicates that, hence, on this ground alone the plaint is not maintainable and is required to be dismissed in limine. The reading of the averments made in the written statement can be termed as irresponsible drafting of the written statement. However, the defendant has specifically pleaded for dismissal of the suit and in Paragraph 20 reiterated the case of the plaintiff and at the end of the said paragraph, has sought for dismissal of the suit. Such a statement in the written statement cannot be called as a categorical admission as required under Order 21 Rule 6 of CPC.

g) The Hon'ble Supreme Court in the case of ***Himani***

Alloys³ referred *supra* held as under:

"11. It is true that a judgment can be given on an "admission" contained in the minutes of a meeting. But the admission should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it.



Order 12 Rule 6 being an enabling provision, it is neither mandatory nor peremptory but discretionary. The court, on examination of the facts and circumstances, has to exercise its judicial discretion, keeping in mind that a judgment on admission is a judgment without trial which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore unless the admission is clear, unambiguous and unconditional, the discretion of the Court should not be exercised to deny the valuable right of a defendant to contest the claim. In short the discretion should be used only when there is a clear "admission" which can be acted upon. (See also Uttam Singh Duggal & Co. Ltd. v. United Bank of India [(2000) 7 SCC 120] , Karam Kapahi v. Lal Chand Public Charitable Trust [(2010) 4 SCC 753 : (2010) 2 SCC (Civ) 262] and Jeevan Diesels and Electricals Ltd. v. Jasbir Singh Chadha [(2010) 6 SCC 601 : (2010) 2 SCC (Civ) 745] .) There is no such admission in this case."

11. The aforesaid enunciation of law makes it clear that the admission of the party should be clear, unambiguous and unconditional. The discretion of the Court should not be exercised to deny the valuable right of the defendant to contest the claim in a suit. The Court should exercise its discretion of accepting the admission and decreeing the suit under Order XII Rule 6 of CPC., only when there is a clear admission. In the case on hand, the reading of the written statement in its entirety and



even Paragraph 20, the admission is not clear. Hence, in our view, the discretion exercised by the Trial Court by decreeing the suit on the said admission and denying the opportunity to the defendant is erroneous.

12. The Hon'ble Supreme court in the case of **Rajeev Ghosh** referred supra held as under:

21. Rule 6, as originally enacted, enabled a court to pronounce judgment or admission "either in pleading or otherwise". It read thus:

"6. Judgment on admissions.— Any party may, at any stage of a suit. where admissions of facts have been made, either on pleadings or otherwise, apply to the Court for such judgment or order as upon such admissions he may be entitled to, without waiting for the determination of any other question between the parties and the Court may upon such application make such order or give such judgment, as the Court may think just."

22. The Law Commission considered the provision. With a view to clarify the position as to admission and also to empower the court to pronounce a judgment: suo motu and to draw a decree on such judgment, recommended to modify the rule. It stated:

"Where a claim is admitted, a court has jurisdiction under Order XII Rule 6 to enter a judgment for the plaintiff, and to pass a decree on the admitted claim (with liberty to the plaintiff to proceed with the suit in the ordinary way as to the remainder of the



claim). The object of the rule is to enable a party to obtain speedy judgment, at least to the extent of the relief to which, according to the admission of the defendant, the plaintiff is entitled. The rule has been held to be wide enough to cover oral admissions. The use of the words 'or otherwise' in Rule 6, without the words 'in writing' which are used in Rule 1 of Order XII, shows that a judgment may be given even on an oral admission. It is desirable to codify this interpretation. It may be noted that under the present rule, a judgment on admission can be passed only on an application. According to a local amendment, the Court may, on the application of any party or of its own motion, make such order or give such judgment. This is a useful amendment, and should be adopted. In our view, it is also desirable to provide that a decree shall follow or » judgment on admissions." (See: Law Commission's Fifty-fourth Report, p. 145)

23. In Statement of Objects and Reasons, it had been stated:

"Clause 65, sub-clause (ii)- Under Rule 6, where a claim is admitted, the Court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on the admitted claim. The object of the rule is to enable a party to obtain speedy judgment at least to the extent of relief to which, according to the admission of the defendant, the plaintiff is entitled. The rule is wide enough to cover oral admissions. The rule is being amended to clarify that oral admissions are also covered by the rule" (See: Notes on Clauses, Gazette of India, dt. 08-04-1974, Pt. II, S.2, Extra., p. 316)

24. Rule 6(1) empowers the court to pronounce a judgment upon admissions made by parties without waiting for the determination of other questions.



25. Rule 6(2) states that a decree shall be drawn up in accordance with the judgment.

26. The primary object underlying Rule 6 is to enable a party to obtain speedy judgment at least to the extent of admission. Where a plaintiff claims a particular relief or reliefs against a defendant and the defendant makes a plain admission, the former is entitled to the relief or reliefs admitted by the latter. [See: Uttam Singh v. United Bank of India, (2000) 7 SCC 120]

27. As observed in the Statement of Objects and Reasons for amending Rule 6, "where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled."

28. The provisions of Rule 6 are enabling, discretionary and permissive. They are not mandatory, obligatory or peremptory. This is also clear from the use of the word "may" in the rule.

29. The powers conferred on the court by this rule are untrammelled and cannot be crystallized into any rigid rule of universal application. They can be exercised keeping in view and having regard to the facts and varying circumstances of each case.

30. If the court is of the opinion that it is not safe to pass a judgment on admissions, or that a case involves questions which cannot be appropriately dealt with and decided on the basis of admission, it may, in exercise of its discretion, refuse to pass a judgment and may insist upon clear proof of even admitted facts.



13. Keeping in mind the enunciation of law laid down by the Hon'ble Supreme Court and considering the averments of the written statement, we are of the clear opinion that the Trial Court has erred in exercising the discretion under Order XII Rule 6 of CPC.

14. For the aforementioned reasons, the appeal is ***allowed***. The impugned judgment and decree dated 07.01.2025 passed in O.S.No.26474/2023 by the LXXIV Additional City Civil and Sessions Judge, Mayo Hall Unit, Bengaluru is *set aside*. The Trial Court is required to consider the suit on its merits and in accordance with law. The observations made by this Court are restricted only to the adjudication of the present *lis*.

No order as to costs.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE