



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 9079 OF 2026 (GM-CPC)

BETWEEN:

SMT. G. JYOTHI
W/O SRI. M.C. SUBASHCHANDRA GOWDA
AGED ABOUT 44 YEARS
R/O MUTHYALPET, MULBAGAL TOWN
MULBAGAL TALUK-563 131

...PETITIONER

(BY SRI. GURUVA REDDY N, ADVOCATE)

AND:

SRI. B.P. PAVAN
S/O B.L. PRABHAKAR
AGED ABOUT 46 YEARS
R/AT BHAVYA NILAYA
KOLAR TOWN, KOLAR TALUK AND DISRICT
PIN-563 101

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 26.02.2026 PASSED BY THE COURT OF SENIOR CIVIL JUDGE AND JMFC MULBAGAL ON IA NO.22 IN O.S NO.260/2013 VIDE ANNEX-E AND DISMISS THE SAID I.A NO.22.

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

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD





ORAL ORDER

This writ petition is filed by the defendant under Article 227 of the Constitution of India, challenging the order dated 26.02.2026 passed on I.A.No.22 in O.S. No.260/2013 by the Senior Civil Judge and JMFC, Mulbagal, whereby the application filed under Order VI Rule 17 of the Code of Civil Procedure, seeking amendment of the plaint has been allowed.

3. The respondent/plaintiff filed the suit in O.S. No.260/2013 for specific performance of the contract. Upon service of summons, the petitioner/defendant appeared through counsel and filed a written statement. Issues were framed and the parties have adduced their evidence. Thereafter, I.A. No.22 was filed by the respondent/plaintiff under Order VI Rule 17 of the Code of Civil Procedure, seeking amendment of the plaint to incorporate an alternative prayer for refund of the earnest money in the event of denial of specific performance.



4. Learned counsel for the petitioner/defendant submits that the suit was filed in the year 2013 and the application was filed in the year 2022, after a lapse of several years. It is further submitted that, in the affidavit, the respondent/plaintiff has not disclosed any proper reasons for the delay, and without considering these aspects, the trial Court has allowed the application.

5. Heard the learned counsel for the petitioner. Perused the writ petition papers.

6. The suit is one for specific performance of a contract. As per Clause (2) of the Specific Relief Act, 1963, unless a party claims refund of the amount, such relief cannot be granted. Under the proviso to Section 22(2) of the said Act, it is provided that where the plaintiff has not claimed such relief in the plaint, the Court shall, at any stage of the proceedings, allow him to amend the plaint on such terms as may be just for including a claim for such relief.



7. Even though there is delay in filing the application, allowing the amendment to incorporate a prayer for refund of the earnest money in a suit for specific performance would not cause any prejudice to the petitioner/defendant. Therefore, there is no error or illegality in the order passed by the trial Court.

8. Accordingly, the writ petition is dismissed, reserving liberty to the petitioner/defendant to file an additional written statement and to lead evidence, if permissible in law.

**Sd/-
(H.T. NARENDRA PRASAD)
JUDGE**

CM
List No.: 1 Sl No.: 38