



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

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

WRIT PETITION NO. 18416 OF 2024 (GM-CPC)

BETWEEN:

MRS SHYLAJA IYER
AGED ABOUT 50 YEARS
W/O RAVINDRA IYER
R/AT 721/11, 41ST CROSS
3RD BLOCK, RAJAJINAGAR
BENGALURU 560 010.

...PETITIONER

(BY SRI.DHANANJAY V JOSHI, SENIOR COUNSEL FOR
SMT. KAVITHA DAMODARAN., ADVOCATE)

AND:

M/S BROOKEFIELD TECHNOLOGIES PRIVATE LIMITED
REGISTERED UNDER THE PROVISION
OF THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT
E 1381 AECS LAYOUT, ITPL ROAD
BROOKEFIELD, BENGALURU -37
REP. BY ITS MANAGING DIRECTOR
MR. PAWAN KUMAR JAIN.

...RESPONDENT

(BY SRI. DHYAN CHINNAPPA, SENIOR COUNSEL FOR
SRI. SUNDARA RAMAN M V., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE
ORDER DATED 02/07/2024 (ON IA NO. 7, IA NO. 8 AND IA NO.
9), PASSED BY THE COURT OF THE HONBLE XVII ADDL.
DISTRICT AND SESSIONS JUDGE (CCH-16) AT BANGALORE, IN
OS NO. 424 OF 2017 (ANNEXURE-A) AND TO PASS ANY SUCH
FURTHER AND OTHER ORDERS AND DIRECTIONS AND ETC.

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





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

ORAL ORDER

1. In this writ petition, the petitioner-plaintiff has called in question the order dated 02.07.2024 passed by the XVII Addl. City Civil and Sessions Judge, Bengaluru (for short 'Trial Court'), on I.A.No.7 filed under Section 151 of CPC, I.A.No.8 filed under Order XVIII Rule 17 of CPC and I.A.No.9 filed under Order VII Rule 14 of CPC, in O.S.No.424/2017, whereby the said applications have been dismissed.

2. For the sake of convenience, the parties are referred to as per their ranking before the Trial Court in Original Suit.

3. The plaintiff filed a suit in O.S.No.424/2017 before the Trial Court for recovery of money. On service of summons, defendant appeared through counsel and filed written statement. On the basis of the pleadings of the



parties, the Trial Court has framed issues. Thereafter, the parties have adduced their evidence. After the completion of arguments, the plaintiff filed I.A.No.7 under Section 151 of CPC seeking to recall the order dated 24.07.2023 and to permit the plaintiff to lead further evidence; I.A.No.8 under Order XVIII Rule 17 of CPC seeking to reopen the stage and to permit the plaintiff to lead further evidence and I.A.No.9 under Order VII Rule 14 of CPC seeking to condone the delay in producing the documents to be filed by the plaintiff. The Trial Court, by impugned order dated 02.07.2024, has dismissed the said applications. Aggrieved by the said order, the present writ petition is filed.

4. Learned Senior counsel appearing for petitioner-plaintiff has submitted that during the cross-examination of PW-1, questions were put regarding certain bank transactions, though no such plea was taken in the written statement. To clarify the said aspect, the plaintiff seeks to



produce additional documents. It is further contended that no prejudice would be caused to the defendant if the aforesaid applications are allowed. In support of his contention, he has relied upon judgment of this Court in the case of **Nanjunda Setty @ N.S.Tallam and Others vs. M/s.Tallam Subbaraya Setty and Sons and Others** reported in **ILR 2004 KAR 924** and in the case of **Sadar Mohd. Vs. Gram Panchayat Bansi & Ors.** reported in **2012 SCC OnLine Raj 3016**.

5. Learned Senior counsel appearing for respondent-defendant has contended that the evidence of plaintiff (PW-1) has been completed on 03.06.2023 and the evidence of defendant has been completed. Thereafter, the matter was posted for arguments. After the completion of arguments, the said applications have been filed to fill up the omission in the evidence of the witness, who has already been examined. The same cannot be permitted under Order XVIII Rule 17 of CPC. He further contended



that there is a delay in filing the applications. The evidence of PW1 has been completed on 03.06.2023 and the applications have been filed on 03.02.2024. The applications are filed seeking to only to fill up the lacuna in the evidence. The same cannot be permitted and it will cause prejudice to the rights of the defendant. In support of his contention, he has also relied upon the judgment of Apex Court in the case of **Vadiraj Naggappa Vernekar (Dead) through LRs. Vs. Sharadchandra Prabhakar Gogate** reported in **(2009) 4 SCC 410** and in the case of **K.K.Velusamy vs. N.Palanisamy** reported in **(2011) 11 SCC 275**.

6. Heard the learned counsel for the parties. Perused the impugned order and writ papers.

7. It is not in dispute that after completion of the arguments, the plaintiff has filed I.A.No.7 under Section 151 of CPC seeking to recall the order dated 24.07.2023 and to permit the plaintiff to lead further evidence;



I.A.No.8 under Order XVIII Rule 17 of CPC seeking to reopen the stage and to permit the plaintiff to lead further evidence and I.A.No.9 under Order VII Rule 14 of CPC seeking to condone the delay in producing the documents.

8. The specific case of the plaintiff is that, during the cross-examination of PW-1 on 03.06.2023, certain questions were posed in relation to bank transactions involving a sum of Rs.20,00,000/- dated 05.11.2014 and Rs.25,67,500/- dated 17.11.2014. The relevant portion of the cross-examination of PW-1 is extracted hereinbelow:

“ಪ್ರತಿವಾದಿ ಕಂಪನಿ 2014 ರಿಂದ 2016 ರ ಅವಧಿಯಲ್ಲಿ ಕರೂರು ವೈಶ್ಯ ಬ್ಯಾಂಕಿನಲ್ಲಿ ಖಾತೆ ಇತ್ತು. ಆ ಅವಧಿಯಲ್ಲಿ ಬ್ಯಾಂಕಿನ ಅಕೌಂಟ್ ಅನ್ನು ನಾನು ಪರಿಶೀಲಿಸುತ್ತಿದ್ದೇನೋ ಇಲ್ಲವೋ ಈಗ ನೆನಪಿಲ್ಲ. ಸದರಿ ಬ್ಯಾಂಕ್ ಖಾತೆಯಿಂದ ನನ್ನ ಖಾತೆಗೆ ಹಣ ಜಮಾ ಆಗುತ್ತಿತ್ತೋ ಇಲ್ಲವೋ ಅನ್ನುವುದು ನೆನಪಿಲ್ಲ. ನಿಷಿ-1 ಸ್ಟೇಟ್ ಮೆಂಟ್ ನೋಡುತ್ತಿದ್ದು, ಅದರಲ್ಲಿ ದಿನಾಂಕ: 05.11.2014 ರಂದು ಕರೂರು ವೈಶ್ಯ ಬ್ಯಾಂಕಿನಿಂದ ರೂ.20 ಲಕ್ಷ ಮತ್ತು ದಿನಾಂಕ: 17.11.2014 ರಂದು ರೂ 25,67,500/- ಹಣ ನನ್ನ ಖಾತೆಗೆ ಜಮಾ ಆಗಿರುತ್ತದೆ. ಸದರಿ ಹಣ ಪ್ರತಿವಾದಿ ಕಂಪನಿಯಿಂದ ನನ್ನ ಖಾತೆಗೆ ಜಮಾ ಆಗಿರುತ್ತದೆ.”

9. A perusal of the written statement filed by the defendant discloses that there is no averment whatsoever



with regard to the aforesaid transactions. It is only for the first time, during the course of cross-examination of PW-1, that such questions have been put forth. In that view of the matter, the petitioner-plaintiff seeks to clarify the said aspect by producing additional documents relating to the transactions in question.

10. It is well settled, as held in the decisions relied upon by the learned counsel for the respondent-defendant, that an application under Order XVIII Rule 17 of the CPC cannot be permitted to fill up the lacunae in the evidence of a witness who has already been examined and cross-examined. However, in the present case, the issue relating to the said transactions has arisen for the first time during the cross-examination of PW-1 and was not part of the original pleadings.

11. In the absence of any prior pleading with respect to the said transactions, and considering that the said matter was introduced only during the cross-examination,



permitting the plaintiff to produce limited additional documents would not cause any prejudice to the defendant. Though there is a delay in filing of the applications and the same has not been satisfactorily explained, in the interest of justice and to afford a fair opportunity, this Court is of the considered view that the impugned order deserves to be set aside, subject to imposition of costs and appropriate conditions.

12. Accordingly, the following order is passed:

ORDER

- a) The writ petition is allowed.
- b) The order dated 02.07.2024 passed by the XVII Addl. City Civil and Sessions Judge, Bengaluru on I.A.No.7 filed under Section 151 of CPC, I.A.No.8 filed under Order XVIII Rule 17 of CPC and I.A.No.9 filed under Order VII Rule 14 of CPC, in O.S.No.424/2017, is hereby set aside.



- c) The said applications are allowed, subject to payment of cost of Rs.25,000/- payable to the defendant on or before the next date of hearing in the Trial Court.
- d) The petitioner-plaintiff is permitted to produce the documents and lead further evidence only in respect of the additional documents sought to be produced. However, he is not allowed to recall any witnesses.
- e) Liberty is reserved to the defendant to further cross-examine PW-1.

All pending I.As., if any, in this writ petition, are disposed of.

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

DM
LIST NO.: 1 SL NO.: 78