

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**

**DATED THIS THE 3<sup>RD</sup> DAY OF JUNE, 2011**

**BEFORE**

**THE HON'BLE MR.JUSTICE B.S. PATIL**

**W.P.Nos.41271/2010 & 8831/2011 (GM-CPC)**

BETWEEN

SRI K.G.RAMAMOHANA GUPTA  
S/O K.N.GOAPALAI AH  
AGED 53 EYARS  
PROPRIETOR OF M/S. MARUTHI ENTERPRISES  
NO 792, I CROSS BANASHANKARI I STAGE,  
I BLOCK, BANGALORE-560050. ... PETITIONER

(BY SRI R.G.HEGDE, ADV.)

AND

SRI K.RAMACHANDRA RAO  
S/O LATE K.VENKATANARAYANA RAO  
AGED ABOUT 62 YEARS  
R/AT NO 84/4, 11<sup>TH</sup> MAIN, 18TH CROSS  
PADMANABHANAGAR,  
BANGALORE 560050. ... RESPONDENT

(BY SRI M.C.RAVIKUMAR, ADV.)

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These writ petitions are filed under Articles 226 and 227 of the Constitution of India praying to quash the order dated 31.3.2008 passed by the XXVI Addl.City Civil Judge, Bangalore, vide Annexure-E and etc.

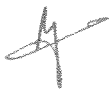
These writ petitions coming on for preliminary hearing this day, the Court made the following:-

**ORDER**

1. In these writ petitions, petitioner is challenging the orders dated 31.03.2008 and 26.11.2010 passed by the Court below dismissing I.A.Nos.III & VII.

2. Petitioner is the defendant in suit O.S.No.17257/2005 filed by the respondent herein for ejectment. Order dated 31.03.2008 was passed rejecting the similar amendment that was sought to be introduced by seeking to amend the written statement vide I.A.No.VII. Defendant contended that under the guise of evicting the defendant from the suit schedule property, the plaintiff was trying to evict the petitioner from the residential portion. Nearly after two years from the date of dismissal of the earlier application, the present application in I.A.No.VII came to be filed again seeking to introduce the same amendment. The Trial Court has dismissed the said application also referring to the earlier order and also finding that in the wake of the earlier order passed on the same question, the subsequent application could not be maintained as there is a bar under Section 11 CPC.

3. I have heard the learned counsel for the parties and perused both the impugned orders and the pleadings. I do not



find any error apparent on the face of the record or error of jurisdiction in the orders passed by the Court below. Petitioner cannot be permitted to challenge the order passed in the year 2008 by filing a writ petition nearly after a lapse of two years. Similarly, there could be no exception taken to the reason assigned by the Court below while dismissing I.A.No.VII stating that similar request made earlier was rejected which cannot be reagitated yet again.

4. Having regard to the nature of the suit which is filed for ejectment it can only be said that the intention of the defendant is only to protract the proceedings. Hence, I do not find any merit in these writ petitions. Therefore, the same are dismissed.

Sd/-  
JUDGE

PKS