HC-KAR

NC: 2026:KHC:17102
WP No. 7193 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

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

WRIT PETITION NO.7193 OF 2026 (GM-CPC)

BETWEEN:

1. G. RADHA KRISHNA NAYAK
   S/O G. RAMDAS NAYAK
   AGED ABOUT 64 YEARS
   R/AT S-9, SAI GOKUL APARTMENTS
   14TH MAIN, 4TH BLOCK, EAST JAYANAGAR
   BENGALURU-560011.

...PETITIONER

(BY SMT. SUKANYA BALIGA B., ADVOCATE)

AND:

1. SAI GOKUL APARTMENTS OWNERS ASSOCIATION
   14TH MAIN ROAD, 4TH BLOCK (EAST)
   JAYANAGAR BENGALURU -560011
   REP. BY ITS PRESIDENT SAGAR D. CHHEDA.

...RESPONDENT

(BY SRI. K.N.HARISH BABU, ADVOCATE)

Digitally signed by DHANALAKSHMI MURTHY
Location: HIGH COURTOF KARNATAKA

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 04.02.2026 VIDE ANNEXURE-J PASSED BY THE CITY CIVIL AND SESSIONS JUDGE, MAYOHALL (CCH 21) BENGALURU IN O.S NO.25155/2020 ON IA FILED UNDER ORDER 18 RULE 17 R/W WITH SECTION 151 OF CPC. AND TO ISSUE DIRECTION TO THE CITY CIVIL AND SESSIONS JUDGE MAYOHALL (CCH-21) BENGALURU TO ALLOW THE IA FILED BY THE PETITIONER/ DEFENDANT UNDER ORDER 18 RULE 17 READ WITH SECTION 151 OF CPC IN O.S.NO.25155/2020 BEING ANNX-G FILED BY THE PETITIONER/DEFENDANT AND ANNEXURE-G.

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

1. In this writ petition, the petitioner-defendant has called in question the order dated 04.02.2026 passed by the C/c IV Addl. City Civil & Sessions Judge, Mayohall Unit, City Civil Court, Bengaluru (for short 'Trial Court'), on I.A. filed under Order XVIII Rule 17 of CPC in O.S.No.25155/2020, whereby the application filed by the defendant, for recalling the evidence of PW-1 for further cross-examination has been rejected.

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 instituted a suit in O.S.No.25155/2020 for recovery of money. Upon service of summons, the defendant appeared and filed a written statement. On the basis of the pleadings, the Trial Court framed issues. Thereafter, the chief-examination of PW-1 was completed.

Though several opportunities were granted, the defendant failed to cross-examine PW-1. Ultimately, the evidence of PW-1 was closed on 21.06.2025. After a lapse of about three months, on 15.09.2025, the defendant filed an application seeking recall of PW-1 for further cross-examination. The Trial Court, by the impugned order dated 04.02.2026, dismissed the said application. Aggrieved by the same, the present writ petition is filed.

4. It is evident that sufficient opportunities were granted to the defendant to cross-examine PW-1. Despite the same, the defendant failed to avail those opportunities, resulting in closure of the evidence of PW-1. The application for recall has been filed after lapse of three months. Nevertheless, in the interest of justice and to afford a final opportunity to the defendant to cross-examine PW-1, this Court is of the view that the impugned order warrants interference, subject to appropriate conditions.

5. Accordingly, the following order is passed:

ORDER

a) The writ petition is allowed.

b) The impugned order dated 04.02.2026 passed by the C/c IV Addl. City Civil & Sessions Judge, Mayohall Unit, City Civil Court, Bengaluru, on I.A. filed under Order XVIII Rule 17 of CPC in O.S.No.25155/2020, is set aside.

c) The application filed by the petitioner-defendant under Order XVIII Rule 17 of CPC is allowed, subject to condition that petitioner-defendant shall pay cost of Rs.10,000/- to the plaintiff on 26.03.2026 before the Trial Court.

d) The petitioner-defendant is permitted to cross examine PW-1 on 26.03.2026 without seeking any further adjournment.

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

DM
List No.: 1 Sl No.: 14