



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF MARCH, 2026

BEFORE

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

WRIT PETITION NO. 13004 OF 2025 (GM-CPC)

BETWEEN:

C.M. NISAR
S/O MR. YOUSEF P
AGED ABOUT 42 YEARS
R/AT 704, PLANET S.K.S APARTMENT
KADRI HILLS, MANGALORE- 575 004

...PETITIONER

(BY SRI. SACHIN B.S, ADVOCATE)

AND:

DR. EUGENE GEORGE RENT
S/O MR. EUGENE RENT
AGED ABOUT 38 YEARS
R/AT 'LOURDES', VIVEKANANDA 4TH CROSS
PADAVU, MANGALORE-575 004
REPRESENTED BY MR. GEORGE
RENT AS PER SPECIAL POWER ATTORNEY
HOLDER 08-02-2022
EXECUTED AT PANAJI GOA
BEFORE MISS KAMALA NAIR
ADVOCATE AND NOTARY

...RESPONDENT

(BY SRI. REGO L.P.E, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASH THE IMPUGNED ORDER DATED 28.02.2025 ON I.A.NO.12 PASSED IN COM. O.S.NO.301 OF 2024 ON THE FILE OF THE IV ADDITIONAL DISTRICT AND

Digitally signed by
DHANALAKSHMI
MURTHY
Location: HIGH
COURT OF
KARNATAKA



SESSIONS JUDGE AT MANGALORE AS PER ANNEXURE-A AND CONSEQUENTLY ALLOW THE I.A. NO. 12 DATED 17.01.2025 AND REJECT THE PLAINT IN COM. O.S.NO. 301 OF 2024 PENDING ON THE FILE OF THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE AT MANGALORE AS PER ANNEXURE-E 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

This writ petition is filed by the defendant under Article 227 of the Constitution of India, challenging the order dated 28.02.2025 passed on I.A. No.12 in Com.O.S. No.301/2024 by the IV Additional District and Sessions Judge, Mangaluru, whereby I.A. No.12 filed under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure was dismissed.

2. The respondent/plaintiff had initially filed a suit in O.S. No.57/2022 before the Principal Senior Civil Judge and CJM, Mangaluru, Dakshina Kannada, seeking ejectment. Thereafter, the petitioner/defendant filed an application under Order VII Rule 10 of the Code of Civil



Procedure for return of the plaint. The plaint was returned for presentation before the appropriate court. Subsequently, the plaint was presented before the IV Additional District Judge, Mangaluru, and was renumbered as Com.O.S. No.301/2024.

3. The petitioner/defendant then filed I.A. No.12 under Order VII Rule 11 of the Code of Civil Procedure for rejection of the plaint on the ground of non-compliance with the mandate of Section 12A of the Commercial Courts Act, 2015. The said application was dismissed, and the trial Court proceeded with the case from the stage at which it had been stopped in the regular court.

4. In view of the order passed by this Court in W.P. No.9697/2025, disposed of on 25.06.2025, wherein it was held that if the matter had been referred to mediation in the regular suit, compliance with Section 12A is not necessary after transfer to the Commercial Court, there is



no error in the order passed on I.A. No.12 filed under Order VII Rule 11 of the Code of Civil Procedure.

5. However, insofar as the Commercial Court continuing the proceedings from the stage at which they were stopped in the original suit is concerned, it is well-settled law that once the plaint has been returned for presentation before the appropriate court, the proceedings must commence de novo. The Hon'ble Supreme Court, in **M/S.EXL CAREERS AND ANOTHER VS. FRANKFINN AVIATION SERVICES PRIVATE LIMITED**, reported in **AIR 2020 SC 3670**, has held that once the plaint is represented, the competent court must try the suit de novo. Accordingly, the Commercial Court is directed to try the suit afresh.

With the above observations, the writ petition stands disposed of.

Since the original suit is of the year 2022, the Commercial Court is directed to dispose of the suit within



one year from the date of receipt of a certified copy of this order, provided there is no stay of the said proceedings granted by any court of law.

All contentions of the parties are kept open.

In view of the disposal of the main matter, all pending applications stand disposed of.

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

CM
List No.: 1 Sl No.: 94