HC-KAR

NC: 2026:KHC:63901
WP No. 2662 of 2026

CNR: KAHC010058942026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 2662 OF 2026 (GM-CPC)

BETWEEN:

1. SRI CHETHAN M.,
   S/O. MUNIYAPPA,
   AGED ABOUT 31 YEARS,
   RESIDING AT NO.437, 8TH CROSS,
   5TH MAIN, DOLLARS COLONY,
   RMV 2ND STAGE,
   BANGALORE -5600 94.

...PETITIONER

(BY SRI SHIVA KUMAR D. A., ADVOCATE)

Digitally signed by VIJAYA P
Location: High Court of Karnataka

AND:

1. SMT. MYTHILI PRASAD
   W/O LATE K.N.S PRASAD
   AGED ABOUT 79 YEARS,
   RESIDING AT NO.11,
   KRIMIT KRUPA APARTMENT,
   FLAT NO103, 16TH CROSS,
   MALLESHWARAM,
   BENGALURU -560055.

...RESPONDENT

(BY SRI MOHAN M., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS OF THE SUIT IN O.S NO. 6273/2023 PENDING ON THE FILE OF THE HONBLE XLII ADDL. CITY CIVIL AND SESSIONS JUDGE, AT BENGALURU (CCH-43) PERUSE THE SAME SET ASIDE THE IMPUGNED ORDER DATED 10.12.2025 UNDER ANNEXURE A, CONSQUENTLY ALLOW THE APPLICATION, THE PETITIONER ON I.A. No.14 UNDER SECTION 151 OF CPC TO REOPEN THE CASE AND ON I.A. No.15 UNDER ORDER XVIII RULE 17 READ WITH SECTION 151 OF CPC TO RECALL THE PW1 BY ALLOWING THE PETITION. SET ASIDE THE IMPUGNED ORDER DTD 13.01.2026 UNDER ANNX-A, CONSEQUENTLY ALLOW THE APPLICATION FILED BY THE PETITIONER UNDER ORDER XVIII RULE 17 R.W.S 151 OF CPC AND UNDER SEC 151 OF CPC BY ALLOWING THE PETITION PASSED BY XLII ACC & SJ, BENGALURU.

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

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL ORDER

The present petition assails the orders dated 10.12.2025 and 13.01.2026 passed in O.S. No.6273/2023, whereby I.A. Nos.14, 15, 16 and 17, seeking reopening of the case and recall of PW.1 for further cross-examination, came to be rejected.

2. Learned counsel appearing for the petitioner submits that, on the date on which the examination-in-chief of PW.1 was recorded, the right to cross-examine the witness was

closed as nil. Subsequently, applications seeking permission to cross-examine PW.1 came to be allowed. However, in view of the settlement proposal made by the plaintiff, the petitioner did not proceed with the cross-examination.

2.1 It is therefore submitted that the petitioner may be afforded an opportunity to cross-examine PW.1.

3. *Per contra*, learned counsel appearing for the respondent submits that, although permission to cross-examine PW.1 was granted on multiple occasions, subject to payment of costs, neither have the costs been paid nor has the cross-examination been conducted, despite PW.1 being present before the Court on all such dates. Learned counsel further submits that the petitioner has been subjecting PW.1 to undue hardship by repeatedly failing to cross-examine her.

3.1 It is contended that permitting further cross-examination would cause considerable hardship to PW.1, having regard to her age. It is also submitted that PW.1 is scheduled to travel to the USA around 15.12.2026 to undergo surgery. In the circumstances, it is submitted that, in the event this Court is

inclined to grant an opportunity for cross-examination, the same may be directed to be completed well before the scheduled date of her travel.

4. Considered the submissions made by the learned counsel for the parties and perused the material on record.

5. The suit is one for eviction. It is evident from the impugned orders that, on the date on which the examination-in-chief of PW.1 was recorded, the witness was offered for cross-examination. However, in the absence of representation on behalf of the defendant, the cross-examination was taken as 'nil'. Subsequently, applications were filed seeking reopening of the case and recall of PW.1 for cross-examination. On more than three occasions, the Trial Court, by imposing costs, permitted the petitioner to cross-examine PW.1. However, the petitioner failed to avail himself of the opportunities so granted.

6. It is evident from the order sheet that the petitioner has repeatedly filed applications seeking recall of PW.1 for cross-examination without availing the opportunities granted by the Trial Court upon allowing such applications. Even when PW.1

was present before the Court, the petitioner failed to proceed with the cross-examination. This conduct undoubtedly gives rise to an inference that the petitioner has deliberately refrained from cross-examining PW.1. The only plausible inference is that such conduct is intended to delay the adjudication of the suit and, to some extent, cause harassment to PW.1, who is aged about 79 years.

7. However, the aforesaid conduct, by itself, cannot be a ground to deny the petitioner an opportunity to cross-examine PW.1. Such cross-examination would assist the Trial Court in effectively and completely adjudicating the dispute between the parties.

8. While affording an opportunity to the petitioner to cross-examine PW.1, the hardship likely to be caused to PW.1, having regard to her advanced age and the circumstances brought to the notice of this Court, requires to be adequately compensated.

9. In that view of the matter, the following :

O R D E R

I. The writ petition is ***allowed***.

II. The order dated 10.12.2025 passed on I.A. Nos.14 and 15 and the order dated 13.01.2026 passed on I.A. Nos.16 and 17 are hereby ***set aside***.

III. The applications are ***allowed***, permitting the petitioner to cross-examine PW.1.

IV. It is submitted that the next date of hearing before the Trial Court is 01.12.2026. PW.1 shall remain present before the Trial Court on the said date for cross-examination. The petitioner shall complete the cross-examination on the said date. It is made clear that, if the petitioner fails to proceed with the cross-examination despite the presence of PW.1 before the Court on the said date, or seeks any further adjournment for the purpose of cross-examination, the Trial Court shall close the stage of cross-examination of PW.1 and proceed further in accordance with law.

V. The aforesaid permission shall be subject to payment of the costs already imposed by the Trial Court under the

impugned orders and, in addition, a sum of Rs.25,000/- to PW.1.

VI. The petitioner shall be permitted to cross-examine PW.1 only upon payment of the aforesaid costs, including the additional amount of Rs.25,000/-, to PW.1 before the Trial Court.

SD/-
(K. V. ARAVIND)
JUDGE

VP
List No.: 1 Sl No.: 3