IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2026

BEFORE

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

WRIT PETITION NO. 13226 OF 2026 (GM-CPC)

BETWEEN:

MR VICTORY SALVADOR D SOUZA
@ HENRY VICTOR D SOUZA
W/O SHEKAR SHETTIGAR
AGED ABOUT 67 YEARS
S/O SALVADORE D'SOUZA
R/AT 'DEV DAN' SIMON LANE
NAGORI, KANKANADY
MANGALURU-575002.

...PETITIONER

(BY SRI. JEEVAN K., ADVOCATE)

AND:

EDWARD ALFRED RAJESH D ALMEDIA
S/O LATE FEDRICK ALMEIDA
AGED ABOUT 58 YEARS
R/AT PRIMERO APARTMENTS
FLAT NO. 1003, PADIL
MANGALORE -575007.

REP. BY HIS SISTER AND G.P.A HOLDER
MRS SYBIL NORONHA
D/O LATE FEDRICK ALMEIDA
W/O LAWRENCE NORONHA
R/AT ROUCHELLE VILLA
MANJALIKE, ALAPE
PADIL, MANGALURU-575007

...RESPONDENT

(BY SRI.AJAY M NORONHA., ADVOCATE FOR
SRI. CYRIL PRASAD PAIS, ADVOCATE FOR C/R)

Digitally signed by DHANALAKSHMI MURTHY
Location: HIGH COURTOF KARNATAKA

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE AN APPROPRIATE WRIT OF CERTIORARI QUASHING THE COMMON ORDER DATED 25-03-2026 PASSED ON I.A NO 8 AND 9 IN OS NO 120/2023 BY THE PRINCIPAL CIVIL JUDGE MANGALURU D.K PRODUCED AT ANNEXURE-A THEREBY TO ALLOW THE IA NO 8 AND 9 FILED BY THE PETITIONER FOR RECALLING THE ORDER DATED 25/03/2026 AND REOPENING OF THE CASE TO THE STAGE OF FURTHER CROSS EXAMINATION OF PW1 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 25.03.2026 passed on I.A. Nos. VIII and IX in O.S. No. 120/2023 by the Principal Civil Judge, Mangaluru, D.K., (for short, 'trial court'), whereby the said applications filed by the petitioner/defendant under Section 151 of the Code of Civil Procedure (for short, 'CPC') for further cross-examination of PW1 and Order XVIII Rule 17 of CPC to recall PW1 for further cross-examination, respectively, have been dismissed.

2. For the sake of convenience, the parties are referred to as per their ranking before the trial court.

3. The respondent/plaintiff filed a suit for eviction. Upon appearance, the defendant filed a written statement. Based on the pleadings of the parties, issues were framed, and the matter was set down for evidence. On 20.11.2024, when the case was posted for cross-examination of PW1, the petitioner/defendant sought time, and the evidence of PW1 was closed. Subsequently, on 19.04.2025, upon an application filed by the petitioner/ defendant, the said order was recalled, and he was again permitted to cross-examine PW1. Thereafter, for one reason or another, the matter was adjourned, and PW1 was not further cross-examined. Ultimately, the trial court closed the evidence of PW1 on 31.01.2026. Hence, the petitioner/defendant filed the said I.A. Nos. VIII and IX.

4. The learned counsel for the petitioner/defendant submits that, if this Court grants one more opportunity, he

will not seek any further time for adducing evidence on his side.

5. Be that as it may. In the interest of justice, and to afford one more opportunity, the writ petition deserves to be allowed subject to certain conditions.

6. In view of the above, the following order is passed:

(i) The writ petition is allowed.

(ii) The order dated 25.03.2026 passed on I.A. Nos. VIII and IX in O.S. No. 120/2023 by the Principal Civil Judge, Mangaluru, D.K., is set aside.

(iii) I.A. Nos. VIII and IX filed by the petitioner/defendant are allowed, subject to the condition that he shall complete the cross-examination of PW1 on the next date of hearing, i.e., 01.06.2026, without seeking any further time, and

also subject to payment of costs of Rs. 25,000/- to the respondent/plaintiff on the said date.

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

CM
LIST NO.: 1 SL NO.: 45