HC-KAR

NC: 2026:KHC:61422
WP No. 32583 of 2026

CNR: KAHC010711512026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO. 32583 OF 2026 (GM-CPC)

BETWEEN:

1. M/S LANCY CONSTRUCTIONS
   A REGISTERED FIRM,
   REPRESENTED BY ITS PARTNERS,
   MRS. JACINTHA MASCARANHAS @ PHILOMINA
   JACINTHA MASCARANHAS
   AGED ABOUT 69 YEARS
   REPRESENTED BY THE SPA HOLDER
   MISS. NEOLA TRESSA MASCARANHAS
   I.E., PETITIONER NO.2.

2. MISS NEOLA TRESSA MASCARANHAS,
   D/O LATE LANCY MASCARANHAS
   AGED ABOUT 34 YEARS

   BOTH ARE R/AT LITTLE FLOWER
   DADDALKAAD, DEREBAIL,
   ASHOK NAGAR POST,
   MANGALURU, D.K. DISTRICT - 575 006.

...PETITIONER

(BY SRI. K. RAVISHANKAR, ADVOCATE)

AND:

Digitally signed by VINUTHA B S
Location: High Court of Karnataka

1. K. R. INDRANI
W/O H. NANDA KISHOR,
AGED ABOUT 48 YEARS
R/AT NO.701,
DEEPA SUNNY APARTMENTS,
GANESH RAO LANE
KODIALGUTHU, MANGALURU,
D.K. DISTRICT - 575 003.

…RESPONDENT

(V/O DTD: 04/11/2026 NOTICE TO RESPONDENT IS DISPENSED WITH)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE COMMON IMPUGNED ORDER DATED 23/02/2026 FILED UNDER ORDER XVIII RULE 17 R/W SEC. 151 OF CPC PASSED ON APPLICATIONS PASSED IN O S NO. 1060/2022 PENDING ON THE FILE OF THE V ADDITIONAL CIVIL JUDGE AND JMFC MANGALURU DAKSHINA KANNADA (PRODUCED VIDE ANNEXURE 'A') TO THE WRIT PETITION AND CONSEQUENTLY ALLOW THE APPLICATIONS AS PRAYED FOR AND ETC,.

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 is filed challenging the order dated 23.02.2026, whereby the applications filed under Order XVIII Rule 17 and Section 151 of the CPC seeking to recall PW.1 for further examination-in-chief was rejected.

2. Learned counsel appearing for the petitioners submits that the suit is one for recovery of rents and various other charges. It is submitted that the petitioners were cross-examined, whereupon the evidence of the plaintiffs was closed. When the suit had reached the stage of the defendants' evidence, an application was filed seeking to recall PW.1 for further examination-in-chief. The said application was allowed on 19.09.2025, permitting further examination-in-chief of PW.1 on 25.10.2025.

2.1 It is further submitted that PW.1 was not available before the Court on the date the application was allowed. Although a further adjournment was sought, the Trial Court closed the matter. The application, which is the subject matter of the impugned order, was thereafter filed seeking an opportunity to

further examine PW.1. However, the Trial Court proceeded to reject the application, holding that the attempt was to fill up the lacunae in the evidence already adduced by the parties.

3. Considered the submissions made by learned counsel for the petitioners and perused the material on record.

4. In view of the limited issue involved and the fact that granting the requested opportunity would not prejudice the rights of the other parties, issuance of notice to the respondent is dispensed with.

5. When the application seeking reopening of the evidence of PW.1 for further examination-in-chief was allowed by the Trial Court on 19.09.2025, but the opportunity was subsequently closed on 25.10.2025 due to the non-availability of PW.1, the subsequent application seeking such an opportunity could not have been rejected on different grounds. Having regard to the fact that the application allowed on 19.09.2025 was not considered an attempt to fill up the lacunae in the evidence of the parties, the subsequent application, filed even before the commencement of the

defendants' evidence, cannot be characterised as an attempt to fill up such lacunae.

6. The reasons assigned by the Trial Court for rejecting the application impugned in the present petition are inconsistent with those underlying its order dated 19.09.2025, whereby further examination-in-chief was permitted. On this ground alone, this Court is inclined to entertain the present petition.

7. Accordingly, the following:

ORDER

i) Writ Petition is ***allowed***.

ii) The impugned order dated 23.02.2026 is set aside

iii) The applications filed under Order XVIII Rule 17 and Section 151 of the CPC is hereby allowed.

iv) The petitioners on the next date fixed by the Trial Court shall complete the further cross-examination. However, the Trial Court shall

grant opportunity to the defendant for cross-examination.

v) The above permission is subject to payment of costs of Rs.10,000/- to the defendant.

Sd/-
(K. V. ARAVIND)
JUDGE

DDU
List No.: 1 Sl No.: 17