



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

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

WRIT PETITION NO. 9327 OF 2026 (GM-CPC)

BETWEEN:

1. SRI.M.K.RAJU
S/O LATE S. KANNAN,
AGED ABOUT 66 YEARS,
R/AT NO.2, 1ST CROSS
5TH MAIN, DOMLUR, 2ND STAGE
BENGALURU - 560071.

...PETITIONER

(BY SRI. K. VIJAYA KUMAR, ADVOCATE)

AND:

1. SRI. N.KRISHNA KUMAR
S/O LATE N. VIJAYRATNAM,
AGED ABOUT 66 YEARS,
RESIDING AT NO.1522,
2ND CROSS, 13TH MAIN,
H A L 3RD STAGE,
BENGALURU-560 008.

...RESPONDENT

(BY SRI. VASANTH V FERNANDES, ADVOCATE FOR C/R)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 12.03.2026 (ANNX-A) DISMISSING THE APPLICATION I.A. NO.4 FILED BY THE PETITIONER UNDER SECTION 151 OF THE CODE OF CIVIL PROCEDURE TO RE-OPEN THE CASE AND PERMIT THE DEFENDANT TO FURTHER CHIEF





EXAMINATION (ANNEXURE-E) AND I.A.NO.5 UNDER ORDER 18 RULE 17 R/W SECTION 151 OF THE CODE OF CIVIL PROCEDURE TO RECALL THE ORDER DATED 07.01.2026 AND PERMIT THE DEFENDANT FURTHER CHIEF AND CONSEQUENTLY ALLOW THE ABOVE EXAMINATION (ANNEXURE-F), APPLICATIONS, BY ALLOWING THIS WRIT PETITION 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 12.03.2026 passed on I.A. Nos. 4 and 5, filed under Section 151 of the Code of Civil Procedure and under Order XVIII Rule 17 of the CPC, respectively, by the XXX Additional City Civil and Sessions Judge, Bengaluru, whereby the applications filed by the petitioner/defendant seeking to recall the order dated 07.01.2026 for further chief-examination of DW1 have been dismissed.

2. The plaintiff has filed a suit in O.S.No.5378/2018 for possession. After service of summons, the petitioner/defendant appeared through counsel and filed a



written statement. Based on the pleadings of the parties, the trial Court framed issues, and the parties adduced their evidence.

3. Despite being granted sufficient opportunities, the petitioner/defendant did not produce any documents and did not examine any witnesses. After the evidence of PW2 was taken as closed on 07.01.2026, the petitioner/defendant filed the present applications seeking to recall the said order. Even though the trial court had granted sufficient opportunities, the counsel for the petitioner/defendant was not present when the matter was called. Therefore, the trial court rightly passed an order closing the evidence of the petitioner/defendant.

4. The trial Court has framed the following issues:

"1. Whether the plaintiff proves that at the time of execution of sale deed dtd.14-09-2016 in his favour, the defendant had promised to deliver the vacant physical possession of the suit schedule property after evicting the tenants who were in



possession of the suit schedule property within 6 months from the date of sale and failed to put him in possession of the same despite his requests and demands by making. illegal demand for payment of Rs. 65,00,000/-?

2. Whether the defendant proves that the total sale consideration agreed to be paid by the plaintiff was Rs.1,65,00,000/-, and not Rs. 1,36,00,000/- as. recited in the sale deed dtd. 14-09-2016?

3. Whether the defendant further proves that under the sale deed dtd. 14-09-2016, he has received only a sum of Rs.1,00,00,000/- from the plaintiff as sale consideration and that the plaintiff had agreed to pay the balance sale consideration amount of Rs.65,00,000/- at the time of he delivering the vacant possession of the suit schedule property?

4. Whether the plaintiff is entitled for vacant possession of the suit schedule property from the hands of the defendant?

5. Whether the defendant is entitled for recovery of a sum of Rs.79,30,000/- with interest at the rate of 12% p.a. from the date of counter claim till realization as claimed in the counter claim?

6. Whether the defendant is entitled for damages as claimed in the counter claim?



7. What order or decree?"

5. In view of the above and in the interest of justice, the writ petition deserves to be allowed, subject to the imposition of cost and certain conditions.

6. Accordingly, the following order is passed:

(i) The writ petition is allowed.

(ii) I.A. Nos. 4 and 5 filed by the petitioner/defendant are allowed, subject to the condition that the petitioner/ defendant shall pay costs of Rs.25,000/- to the respondent/ plaintiff on or before the next date of hearing before the trial court. The petitioner/defendant is further directed not to seek any adjournment on the date fixed by the trial court. In the event any adjournment is sought for, the order dated 12.03.2026 passed by the trial court shall stand confirmed.



(iii) If the matter is presently posted on
25.03.2026, the trial Court shall adjourn the
matter to 28.03.2026.

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

CM
List No.: 1 Sl No.: 100