



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO. 51038 OF 2019 (GM-CPC)

BETWEEN:

M/S SANZ CONSTRUCTIONS PVT LTD
A COMPANY INCORPORATED UNDER THE
COMPANIES ACT
HAVING ITS REGISTERED OFFICE AT
NO 504, 1ST FLOOR, NEW DIAGONAL ROAD,
III BLOCK JAYANAGAR, BANGALORE - 560011
REP BY ITS DIRECTOR,
SRI B.K.KRISHNAMURTHY.

...PETITIONER

(BY SRI. PRASANNA KUMAR S., ADVOCATE)

AND:

1. THE KARNATAKA ROAD DEVELOPMENT
CORPORATION LTD.,
(A GOVERNMENT OF KARNATAKA ENTERPRISES)
HAVING ITS OFFICE AT NO 16/J
FLOOR MILLER TANK BED AREA
BANGALORE - 560052.
REP BY ITS MD.

2. THE EXECUTIVE ENGINEER
P W D DIVISION
CHIKKAMAGALUR
CHIKKAMAGALUR DISTRICT PIN - 577101

...RESPONDENTS

(BY SRI.BASAVARAJ V. SABARAD, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS
OF THE O.S.NO.6556/2008 PENDING ON THE FILE OF XL



ADDNL CITY CIVIL AND SESSIONS JUDGE FOR EXAMINATION SET ASIDE THE IMPUGNED ORDER PASSED IN I.A.NO.3 AND 4 DATED 10.10.2019 IN O.S.NO.6556/2008 PENDING ON THE FILE OF PENDING ON THE FILE OF XL. ADDNL. CITY CIVIL AND SESSIONS JUDGE VIDE ANNEXURE-A.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL ORDER

1. The present petition seeks to challenge an order dated 10.10.2019, passed by the learned XL Addl.City Civil Judge, Bengaluru, [hereinafter referred to as the "Trial Court"]. By the Impugned Order, IA.No.3 filed under Section 151 of Code of Civil Procedure, 1908 (hereinafter referred to as "CPC"), for recalling the order dated 29.06.2019 and IA.No.4, filed under Order XVIII Rule 17 of CPC, for re-opening of the case and to recall DW-1 for cross-examination, have been dismissed with costs in the sum of Rs.1,000/-.

2. The learned counsel for the petitioner submits that the parties have filed suits for recovery against each other and common evidence was recorded. She however



submits that the petitioner was unable to cross-examine the defendants' witness/DW-1 and since the evidence of defendants was closed, an application for recalling was filed. Learned counsel for the petitioner further submits that examination of the defendants' witness is necessary for effective adjudication of this case.

3. Learned Senior Counsel appearing for the respondents (defendants before the Trial Court) has made several submission, objecting to this petition. In the first instance, learned Senior Counsel stated that two suits were filed in the year 2008 and 2009, but the petitioner has only been delaying the proceedings. He submits that the respondent is a statutory body and the delay is causing loss to the exchequer.

4. Learned Senior Counsel further submits that, perusal of the records shows that this is not the first time that such an application was filed. Even previously, such application was filed and the learned Trial Court allowed



the application in the interest of justice and subject to payment of costs on 08.01.2019. However, neither the costs were paid nor the cross-examination was conducted by the petitioner and thus, the order dated 29.06.2019 was passed closing the evidence of the defendants for the second time. It is thus contended that identical tactics were adopted not only for this time, but for almost 13 years by the petitioner. Thus, it is averred that the petitioner is not entitled for any relief from this Court.

5. Learned Senior Counsel also places reliance on the order sheet of the Trial Court which is annexed along with his objections.

6. This Court has examined the record of the case. The learned Trial Court has set out the facts which have been stated by the learned Senior Counsel appearing for the respondents. The learned Trial Court held that inspite of repeated opportunities, the petitioner has failed to cross-examine DW-1. Hence, the cross-examination was taken



as Nil. Learned Trial Court has also found that after 04.04.2016, the case was adjourned for evidence and after the evidence was closed and matter was fixed for arguments, the applications for recalling were filed by the petitioner. Thus, the Impugned Order was passed rejecting the applications filed by the petitioner.

7. This Court has also examined the order sheet placed on record by the respondents. The order sheet reflects that on 06.10.2017, DW-1 (respondents' witness) was examined fully, however, no cross-examination was held on that day. Thereafter, the order sheet reflects that time was taken by the petitioner for arguments on several dates, including 07.11.2017, 30.11.2017, 11.01.2018, 03.02.2018, 03.03.2018 and 22.03.2018.

8. On 13.04.2018, the applications - IA.No.1/2018 under Section 151 of CPC and IA.No.2/2018 under Order XVIII Rule 17 of CPC, were filed by the petitioner/plaintiff. The respondents filed their objections. The learned Trial



Court after examining the objections, passed an order allowing these applications on 08.01.2019. It is apposite to set out the extract of the order dated 08.01.2019 below:

" Plaintiff filed these two IAs for recall of order and recall of Dw.1 for cross examination. Since 14.3.2017 till 6.10.2017 the case was adjourned for cross examination of Dw.1. Inspite of opportunities given plaintiff fails to cross examine Dw.1. Thereafter case adjourned for arguments from 7.11.2017 till 13.4.2018. On that day plaintiff filed these IAs praying for recall of Dw.1 for cross examination. If plaintiff is not permitted to cross examine Dw.1 he will be put to injustice. The inconvenience caused to the plaintiff can be compensated by awarding the cost. Therefore, in the ends of justice IAs.1 and 2 are allowed on cost of Rs.500/-."

[Emphasis Supplied]

9. The order dated 08.01.2019 also set out that as a last opportunity for the cross-examination and cost to be paid by the petitioner. This order was however not complied with. The petitioner sought time thereafter. On 26.04.2019, although the defendants' witness DW-1 was present, the petitioner sought time once again. The learned Trial Court granted one more opportunity at the



cost of Rs.1,000/-. The order dated 26.04.2019 is set out below:

"Dw.1 present.

Counsel representing plaintiff seeks time. Perused the order sheet. When the case posted for arguments plaintiff filed recall application for cross of Dw.1 and the application came to be allowed. Again, case posted for arguments, plaintiff filed similar application. On 8.1.2019 the application allowed on cost. Today Dw.1 present counsel representing plaintiff seeks time on the ground that his senior counsel has gone to hospital. However, one more opportunity is given on cost of Rs.1,000/-.

For cost and cross of Dw.1 finally."

[Emphasis Supplied]

10. Hence, for the second time, opportunity was granted on 26.04.2019 to the petitioner to cross-examine DW.1. Despite these opportunities, since the petitioner did not undertake the cross-examination, the learned Trial Court on 29.06.2019, once again closed the evidence of the defendants. Thereafter, the petitioner filed IA.Nos.3 and 4 on 06.09.2019, which were dismissed by the Impugned Order.

11. The petitioner is unable to show the Court any reason for the repeated adjournments or the delay in cross-examination of DW-1. The conduct of the petitioner



is no different before this Court. This matter is also pending before this Court for almost six years. This matter was once dismissed for non-prosecution on 28.03.2025 by this Court and it has only been restored today. Given the foregoing discussions, this Court finds no reason to interfere with the Impugned Order.

12. The petition is accordingly ***dismissed***. All pending applications stand closed.

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

BK/NR
List No.: 1 Sl No.: 5