



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 200341 OF 2026 (GM-CPC)

BETWEEN:

THE NEW INDIA ASS. CO. LTD.,
THROUGH ITS DIVISIONAL MANAGER,
KANDUR MALL, MAIN ROAD, S.V.P CIRCLE,
STATION AREA, KALABURAGI-585102.
(NOW REPRESENTED BY DULY CONSTITUTED
ATTORNEY, THE NEW INDIA ASS. CO LTD.,
KALABURAGI)

...PETITIONER

(BY SMT. PREETI PATIL MELKUNDI, ADVOCATE)

AND:

1. MOHD. ABDUL RASHEED
S/O MOHD ABDUL JABBAR,
AGED ABOUT 39 YEARS,
OCC: TAILORING WORK (NOW NIL),
R/O H.NO.11/94, TOPE GALLI,
HUMNABAD, DIST. BIDAR-585330.
2. LAKHAN S/O LAXMAN,
AGE: MAJOR,
R/O H.NO.16/92, FATIMAPUR,
CHITGUPPA, TQ. HUMNABAD,
DIST. BIDAR 585412.
(OWNER OF THE OFFENDING VEHICLE TATA MAGIC

Digitally signed
by SACHIN
Location: HIGH
COURT OF
KARNATAKA



CAR BEARING NO.KA-33/M-2948 AS PER RC)

3. KAMALAKAR SHAMRAV,
AGE: MAJOR,
R/O 15-824/41, JANATHA NAGAR COLONY,
CHITGUPPA, TQ. HUMNABAD,
DIST. BIDAR-585412.
(OWNER OF THE OFFENDING VEHICLE - TATA MAGIC
CAR BEARING NO.KA-33/M-2948
AS PER INSURANCE POLICY)

...RESPONDENTS

(BY SRI. SANJEEV PATIL, ADVOCATE FOR R1;
V/O DTD. 21.01.2026 NOTICE TO R2 & R3 IS
DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN NATURE OF CERTIORARI AND QUASH THE ORDER DATED 05.01.2026 PASSED IN IA NO.I BY THE I ADDL. SENIOR CIVIL JUDGE AND MACT AT KALABURAGI IN MVC NO.977/2025 VIDE ANNEXURE-C AND CONSEQUENTLY ALLOW THE SAME, DIRECTING THE TRIBUNAL TO PERMIT THE PETITIONER TO FILE WRITTEN STATEMENT TO CLAIM PETITION and ISSUE ANY OTHER WRIT ORDER OR DIRECTION AS THIS HON'BLE COURT DEEMS FIT UNDER THE CIRCUMSTANCE OF THE CASE.

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

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY



ORAL ORDER

This writ petition under Article 227 of the Constitution of India is filed seeking for the following reliefs :

"Issue a writ in nature of certiorari and quash the order dated 05.01.2026 passed in IA No.I by the I Addl. Senior Civil Judge and MACT at Kalaburagi in MVC No.977/2025 vide Annexure-C and consequently allow the same, directing the Tribunal to permit the petitioner to file written statement to claim petition and issue any other writ order or direction as this Hon'ble Court deems fit under the circumstance of the case."

2. Learned counsel for the parties jointly submits that the question that arises for consideration in this writ petition is squarely covered by the order passed by the Co-ordinate Bench of this Court in W.P.No.203746/2025 disposed of on 25.11.2025.

3. In the present case, the petitioner had entered appearance on 14.08.2025 and written statement was taken as Nil on 16.12.20025. Subsequently, on 31.12.2025 i.e. after expiry of 120 days from the date of petitioner's appearance written statement was filed along



with an interlocutory application which was rejected by the Tribunal.

4. In paragraph No.6 of the order passed in W.P.No.203746/2025 dated 25.11.2025, it is observed as follows :

*"06. The Apex Court in the case of **Kailash vs. Nanhku and others**, reported in **(2005) 4 SCC 480**, has held that though order VIII Rule 1 of CPC, and the proviso thereto, caste an obligation on the defendant to file written statement within time prescribed therein, the provisions do not deal with nor specifically take away the power of Court to take a written statement on record, though filed beyond time as provided for therein. The provisions are directly and not mandatory. The condonation of delay in filing the written statement shall be considered depending on the facts of each case. That in spite of the time limit provided under Order VIII Rule 1 CPC, the Court is not powerless to permit a written statement being filed."*

5. Under the circumstances, I am of the opinion that the impugned order needs to be set aside. Accordingly, the following order:

- i) The writ petition is **allowed**.
- ii) The impugned order dated 05.01.2026 passed by the Court of I Additional Senior Civil Judge



and MACT, Kalaburagi in MVC No.977/2025 is set aside and the Tribunal is directed to take on record the written statement filed on behalf of the petitioner and proceed further in accordance with law.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

SN
List No.: 1 Sl No.: 77
CT:PK