

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 2698/2023

Reserved on:05.06..2025
Pronounced on: 01.08.2025

Shafeeq Ahmad Mir
 S/o Ghulam Mohi-Ud-Din Mir
 R/o Kadalbal Pampore

...Petitioner(s)/Appellant(s)

Through:

Mr. Danish Majid Dar, Advocate with
Ms. Ahra Syed and Ms. Monisa Advocate

Vs.

- 1) UT of J&K and others.
 Through its Under Secretary to Government, Industries and Commerce
 Department, Civil Secretariat, Srinagar/Jammu.
- 2) Director,
 Industries & Commerce, Kashmir. Sanat Ghar Bemina
- 3) General Manager,
 District Industries Centre, Pulwama.
- 4) Managing Director,
 Jammu& Kashmir State Industrial Development Corporation Limited.
 Sanat Ghar Bemina
- 5) General Manager (K),
 Jammu & Kashmir State Industrial Development Corporation Limited
 Sanat Ghar Bemina
- 6) Safder Ali Wani
 S/o Mukhtar Ahmad Wani
 R/o Sazgaripora Hawal, Sringar
- 7) Bilal Hassan Anim
 s/o Ghulam Hassan Anim
 R/o Hyderpora, Srinagar

...Respondent(s)

Through:

Mr. Shariq J. Reyaz, Advocate with
Ms. Humaira Sajad, Advocate
Mr. Waseem Gul, G.A

CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGMENT

1. The petitioner, through the medium of instant writ petition, has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India seeking inter alia quashment of Order No. SIDCO/ROK/18/27 dated 29.06.2018 issued by the Respondent No.4, whereby change in the Constitution and name of an industrial unit originally allotted in the name of the Petitioner's proprietorship concern, M/s S.A. Steel Rolling Mills was approved in favour of a Private Limited Company, namely M/s Mir S.A. Steel Rolling Mills Pvt. Ltd.
2. The grievance of the petitioner is that the said change in constitution was effected without his consent, at his back, and by misusing certain signed documents. It is alleged that the said transfer was in gross violation of the applicable Industrial Policy of 2016 and the Procedural Guidelines notified thereunder. The Petitioner also assails the legality of a registered lease deed dated 26.10.2018 executed between SIDCO and the said Pvt. Ltd. Company, allegedly signed by the Petitioner in his capacity as Director, which he contends was either forged or signed under deception.

Factual Background.

3. Briefly stated, the Petitioner claims to be the original allottee of the industrial unit under the Industrial Policy of 2004-2005. The unit was allotted land in Lassipora Industrial Growth Centre and was being run under the proprietorship concern M/s S.A. Steel Rolling Mills. It is the case of the Petitioner that sometime in 2018, Respondent Nos. 6 and 7, who were initially engaged in financial arrangements with the Petitioner

for expansion of the business, fraudulently got the constitution of the unit changed and had it transferred to a Private Limited Company without the Petitioner's knowledge.

4. The Petitioner alleges that a declaration-cum-confirmation, a surrender deed dated 25.10.2018, and a lease deed dated 26.10.2018 were executed without proper authority and were a product of fraud, impersonation, and misrepresentation. Even FIR No. 18/2018 was registered at the Petitioner's instance. However, the investigation concluded with a closure report based on FSL findings that confirmed the signatures to be those of the Petitioner.
5. The Petitioner further states that the financial consideration for the alleged transfer was never honoured and cheques issued towards the same were dishonoured. Proceedings under Section 138 of the Negotiable instrument Act and a civil suit for recovery of approximately ₹125 crores are pending.
6. The Petitioner seeks, inter alia, the quashment of the impugned order dated 29.06.2018 and all consequential documents, including the registered lease deed, on the grounds of fraud, illegality, and constitutional violation of Article 14.

ARGUMENTS ON BEHALF OF PETITIONERS

7. Mr. Danish Majid Dar, learned counsel for the petitioner submits that the petitioner is aggrieved by an order No. SIDCO/ROK/18/27 dated 29.06.2018 issued by Respondent No. 4, whereby sanction has purportedly been granted for change in the constitution of the

Petitioner's unit from proprietorship to private limited company and consequent change of its name from M/s S. A. Steel Rolling Mills to M/s Mir S. A. Steel Rolling Mills. It is submitted that impugned order, suffers from multiple legal infirmities and procedural irregularities, rendering it unsustainable in the eyes of law.

8. It is contended that the said order was issued unilaterally, in gross violation of the principles of natural justice, without affording the Petitioner any opportunity of being heard. The Petitioner, who is the original allottee and proprietor of the unit in question, was not issued with notice prior to issuance of the impugned order, despite the fact that the change of constitution has extensive legal consequences upon his proprietary rights and interest in the industrial unit.

9. Learned counsel further submits that the entire edifice of the impugned order is built upon a “**No Objection Certificate (NOC)**” issued by Respondent No. 3, which itself was obtained through suppression of material facts and in connivance with the Private Respondents. It is submitted that the NOC, and consequently the impugned order based upon it, were secured through fraudulent means and in collusion with certain officials of the Respondent Corporation, thereby vitiating the order on the grounds of fraud, deception, and lack of transparency.

10. It is further argued that the impugned order is in direct contravention of the Industrial Policy of 2016 and the Procedural Guidelines of 2017, which categorically stipulate that any change in the constitution or transfer of leasehold rights in favor of a third party is permissible only after the unit comes into production. The Petitioner's unit, it is submitted, has remained provisionally registered and has not yet commenced commercial production due to extraneous and unforeseen factors beyond the Petitioner's control, including socio-political unrest, power supply issues, and statutory restrictions on electric arc and induction furnaces. Thus, the Petitioner contends that any alteration in constitution or lease in violation of these policy prescriptions is legally impermissible.

11. The learned counsel for the petitioner has also invited the attention of this Court to a sequence of agreements entered into between the Petitioner and the Private Respondents, wherein a transaction involving sale of infrastructure and shares worth ₹125 Crores. It is argued that although substantial consideration was promised through cheques and land exchange, the Private Respondents failed to honor their part of the agreement. The cheques issued towards consideration were dishonored, leading to the filing of criminal complaints under Section 138 of the Negotiable Instruments Act. Interim relief in the form of

compensation of ₹15 Crores was granted by the Trial Court, though the said order was stayed ex parte in revision proceedings.

12. It is further submitted that the failure of the Private Respondents to honor their contractual and financial obligations resulted in severe economic hardship to the Petitioner, culminating in the initiation of insolvency proceedings against him by J&K Bank under the Insolvency and Bankruptcy Code, 2016. The Petitioner was constrained to approach the High Court through writ proceedings, and the Hon'ble High Court was pleased to pass a status quo order in relation to the manufacturing units, recognizing the gravity and complexity of the dispute.

13. Further, it is alleged that the Private Respondents, acting in gross violation of agreements, have proceeded to enter into third-party transactions with respect to the industrial units, despite having no legal authority to do so. The Petitioner asserts that these acts amount to criminal breach of trust and wrongful interference with property rights.

14. Most significantly, learned counsel for petitioner contends that the impugned order dated 29.06.2018 was procured through forgery, suppression of material facts, and collusion, and that the change of name and constitution was effected without legal mandate, and in clear contravention of earlier cancellation order issued by the District Industries Centre. Reference is made to Order Nos. 91-DIC

of 2017 and 266-DIC of 2017, whereby an earlier attempt to change the constitution and nomenclature was withdrawn in light of registered criminal complaints and forgery allegations.

15. Mr. Dar further submits that the impugned action has resulted in gross violation of the Petitioner's legal and constitutional rights, including the right to carry on trade and business under fair and lawful conditions. The Petitioner's repeated representations highlighting the illegality and seeking redressal have not evoked any response from the authorities, thereby leaving him with no efficacious remedy except to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

16. Learned counsel for the Petitioner submits that the instant writ petition has been necessitated by grave and continued violations of the Petitioner's legal and proprietary rights, arising out of impugned Order No. SIDCO/ROK/18/27 dated 29.06.2018, whereby Respondent No. 4 (SIDCO) sanctioned a change in the constitution of the Petitioner's industrial unit M/s S.A. Steel Rolling Mills into a private limited company, namely M/s Mir S.A. Steel Rolling Mills, allegedly based upon a No Objection Certificate (NOC) dated 17.05.2018 issued by Respondent No. 3 (District Industries Centre). It is submitted that the said order, as well as the subsequent execution of a lease deed dated 26.10.2018 and related documents, have been obtained through fraudulent means, in collusion with

private Respondents and without the knowledge, consent, or participation of the Petitioner.

17. It is vehemently argued that the Petitioner, being the original allottee of the unit in question and having made substantial investments to the tune of ₹125 Crores, was never served with any notice nor granted an opportunity of being heard prior to the issuance of the impugned order. The procedural impropriety is compounded by the fact that the unit remains a provisionally registered industrial unit, which has not commenced production due to reasons beyond the Petitioner's control, including law and order disruptions, power constraints, and statutory restrictions on electric arc furnaces. As per the Industrial Policy of 2016 and the Procedural Guidelines of 2017, no change in constitution or transfer of leasehold rights is permissible prior to commencement of production.

18. Learned Counsel further submits that a prior attempt to change the name and constitution of the unit had already been rescinded by the District Industries Centre through Order No. 266-DIC of 2017 dated 06.11.2017, following concerns about document authenticity and the registration of a criminal complaint. Thus, SIDCO's subsequent issuance of the impugned order is alleged to be in direct contradiction of DIC's actions, rendering it ultra vires and void.

19. The learned counsel for Petitioner, has also brought to the Court's attention that the impugned order dated 29.06.2018 based on an NOC, purportedly issued by respondent No.3 upon enquiry conducted on the basis of complaint filed by petitioner, it was found that no such NOC exists in the official record. Rather, the earlier NOC was rescinded, and no fresh or valid NOC was ever issued thereafter.

20. It is further contended that the Private Respondents had entered into agreements with the Petitioner for transfer of the manufacturing units and assets for a total consideration of ₹125 Crores. However, the said Private Respondents defaulted on these commitments, including issuing dishonoured cheques amounting to ₹100 Crores, which are now the subject matter of criminal proceedings under Section 138 of the Negotiable Instruments Act. A parallel civil suit for recovery of ₹25 Crores is also pending before the District Court, Pulwama. It is further submitted that despite having defaulted on their obligations, the Private Respondents managed to obtain the impugned order and execute subsequent documents including a lease deed, declaration cum confirmation of ownership rights, and surrender of lease dated in October 2018, at the back of the Petitioner.

21. It is asserted that these documents were either signed fraudulently or bear forged signatures of the Petitioner, and none of

them were executed with the Petitioner's participation or consent. The documents, it is alleged, were merely notarized and not duly registered, thereby failing to satisfy mandatory legal requirements. It is emphasized that fraud vitiates all transactions, and hence, these documents are void ab initio.

22. Additionally, FIR No. 18 of 2018 stands registered against the Private Respondents under Sections 420, 467, and 468 of the Ranbir Penal Code, lending further credence to the Petitioner's claim of fraud, misrepresentation, and collusion in the execution of these transactions.

23. Lastly, it is urged that the Private Respondents has taken contradictory stand in various legal proceedings, on one hand, he asserts that the agreements with the Petitioner were invalid and unenforceable, while simultaneously securing official orders and leasehold rights on the basis of those very agreements. The Petitioner submits that this inconsistency underscores the fraudulent character of their conduct.

ARGUMENTS ON BEHALF OF RESPONDENTS

24. Per contra, Learned counsel Mr. Shariq J. Reyaz appearing on behalf of Respondent Nos. 6 and 7 has raised preliminary objections with regard to the maintainability of the present writ petition. At the outset, it is submitted that the writ petition is liable to be dismissed on multiple grounds, including bar of limitation,

lack of a public law element, suppression of material facts, and the existence of disputed questions of fact that fall outside the scope of writ jurisdiction.

25. It is submitted that the present writ petition suffers from gross delay and laches, having been filed more than five years after the accrual of the alleged cause of action. The impugned order was passed on 29.06.2018, and the related lease deed was executed on 26.10.2018, yet the Petitioner has approached this Court only in the year 2023, without offering any plausible or legally sustainable explanation for the delay. Such inordinate delay, it is argued, is fatal to the maintainability of the petition.

26. It is further contended that the Petitioner's civil remedies, if any, are also barred by limitation. The writ petition is an attempt to circumvent this bar and achieve through a public law remedy what is otherwise not permissible under private law.

27. Mr. Shariq, further submit that the Petitioner has consciously suppressed the fact that the lease deed dated 26.10.2018, declaration of assignment dated 25.10.2018, and surrender deed dated 25.10.2018 were executed post the impugned NOC and SIDCO order. Initially, these documents were not even placed on record. Though subsequently introduced through an amendment, the Respondents contend that the initial suppression is fatal and indicative of mala fide intent. It is asserted that had these

documents been disclosed at the very the outset, the writ petition would have been liable for rejection at the threshold.

28. It is further submitted that the registered lease deed was signed by the Petitioner himself in his capacity as Director of the Private Respondent company, and therefore, he is estopped from challenging the same. Moreover, FIR No. 18 of 2018, registered at the Petitioner's instance alleging forgery, has culminated in a closure report based on the FSL opinion that the signatures on the lease deed match those of the Petitioner, thereby nullifying the allegation of fraud or impersonation.

29. It is contended that the dispute essentially arises out of private commercial dealings and is devoid of any public law element. The Petitioner's grievance pertains to alleged default in payment of consideration, dishonour of cheques, and alleged fraud which fall squarely within the domain of private civil law. A writ petition, it is argued, is not the proper remedy to adjudicate such disputes.

30. Lastly, learned counsel for respondents submits that the core issues raised by the Petitioners such as the validity of the lease deed, alleged forgery, and the question of consent all fall within the realm of disputed questions of fact that require oral and documentary evidence. These issues can only be appropriately adjudicated through a civil suit after full-fledged trial and cannot be resolved in summary writ proceedings.

LEGAL ANALYSIS

31. With a view to decide the preliminary objections raised by Mr. Shariq R. Jan, this court at the very outset, is inclined to begin with the following quote:

“The Writ Court is a forum of constitutional redressal, not a substitute for civil trials. While justice must be swift, it cannot be blind to procedural boundaries. The extraordinary writ jurisdiction under Article 226 is to be exercised with caution, especially where disputed facts threaten to cloud judicial clarity.”

32. The present writ petition, as amended, has been filed under Article 226 of the Constitution of India, wherein the Petitioner seeks, *inter alia*, a declaration that the lease deed dated 26.10.2018, the declaration-cum-confirmation of assignment of ownership rights dated 25.10.2018, and the surrender of lease deed dated 25.10.2018 are null, void, and non-est in the eyes of law.

33. At the threshold, this Court is confronted with certain preliminary objections raised with regard to the maintainability of the petition. These objections, touching upon the very jurisdictional competence of this Court to entertain the present writ, require due consideration before delving into the merits, if at all required to deal.

Issues for Determination

34. In light of the pleadings and preliminary objections, the following issues arise for determination:

Issue No. i: Whether the present writ petition raises complex and substantial disputed questions of fact that render the

exercise of writ jurisdiction under Article 226 impermissible?

Issue No. ii: Whether the petition involves any infringement of public law right or raises public law concern warranting interference under Article 226 of the constitution?

Issue No. iii: Whether the writ petition suffers from delay and laches, and is thus barred by limitation, disentitling the Petitioner to equitable relief under Article 226?

Issue No. iv: Whether the concealment of material facts by petitioner amount to abuse of the writ jurisdiction, warranting dismissal of the petition for lack of bona fides?

Issue No.v: Whether this court ought to decline exercise of its writ jurisdiction under 226 of the Constitution and direct the petitioner to avail alternate remedies before the competent civil court ?.

Issue I: Whether the present writ petition raises complex and substantial disputed questions of fact that render the exercise of writ jurisdiction under Article 226 impermissible?

35. Having heard learned counsel for the parties at length and perused the material on record, the above issues which arise for consideration in the instant petition will be addressed and answered as follow:

36. At the outset, it must be observed that the reliefs sought pertain to adjudication of private civil rights arising out of a contractual arrangement between the parties. The core prayer in the petition is one which essentially seeks cancellation or invalidation of a

lease deed, a relief that squarely falls within the domain of the civil courts under the provisions of the Specific Relief Act, 1963.

37. The core issue raised by the petitioner pertains to the validity of a lease deed executed between private parties, which involve factual controversies relating to execution, consent, and enforceability. These are matters requiring detailed examination of evidence, both oral and documentary, which is within the domain of the civil courts and not amenable to determination under Article 226.
38. However, the record demonstrates that the lease deed dated 26.10.2018 is a registered document signed by the petitioner himself in the capacity of Director of the respondent company. The petitioner had lodged an FIR in 2018 alleging impersonation and fraud, but forensic reports matched his signatures, and the case was closed accordingly. The petitioner seeks, indirectly through this petition, to invalidate contractual instruments and resurrect a cause of action that would otherwise be barred in a civil suit.
39. These contentions raise serious factual disputes including the genuineness of signatures, the petitioner's role and knowledge in the execution of the lease, and the sequence of ownership transfer that cannot be resolved on affidavit evidence or legal submissions alone.

40. Learned counsel for the petitioner has placed reliance on the judgment titled **Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 383**, and has contended that the present case falls within the exceptions carved out therein, thereby justifying the invocation of writ jurisdiction despite the availability of an alternative remedy. Furthermore, there is no public law element in the present case, nor does it fall within the exceptions carved out in **Whirlpool case**, justifying the exercise of jurisdiction by the writ court. The petitioner has tried to justify the delay on false and flimsy grounds which are not tenable in the eyes of law. As a matter of fact, the alleged cause of action has accrued to him in the year 2018. It was only after an objection was raised by the private respondent with regard to the maintainability of the instant petition, the petitioner has amended the instant writ petition, despite having waived of his right earlier to challenge those orders. This Court while exercising writ jurisdiction is precluded from recording any finding on the validity of the document in question, as the remedy lies elsewhere. The instant writ petition raises disputed questions of fact, which cannot be gone into writ proceedings, more particularly when the determination of fraud has yet to be established by the civil court.
41. Further, the petitioner has placed reliance upon the judgment titled as **Meghmala V. G Narasimha Reddy, 2010(8) SCC 383** relating to the fraud will not be applicable to the instant case as

the issue of fraud is speculation of petitioner which till date has not been adjudicated by any civil court after due appreciation of evidence. Assuming the orders have been procured by way of fraud then the same to have been challenged in the year 2018, when alleged cause of action first arose, but having failed to do so and allowed five years to lapse, the petitioner is now “estopped in law” to question the same at this belated stage after a gap of five years, moreso when the amended was sought only after an objection with regard to the maintainability was raised by the other side. This raises serious doubt with regard to allegation of fraud which is far from truth in the light of the closure report based on FSL opinion by holding that the signatures on the lease deed matches with those of petitioner, thereby nullifying the allegation of fraud or impersonation. The petitioner after the objection was raised by other side, has become wiser and has sought amendment of the instant petition and tried to justify the delay by projecting that the document has been procured by way of fraud. The principle relied upon by petitioner that fraud vitiates everything and does not apply to the facts of the present case.

42. The law is settled that writ jurisdiction under Article 226 cannot be invoked to resolve complex factual controversies which require trial, oral evidence, and cross-examination. This principle has been consistently reiterated by the Hon’ble Supreme Court in

the case titled as **ShubhasJain vs Rajeshwari Shivam& Ors.**

Reported as 2021(20) SCC 454 wherein it has been held:

“25. It is well settled that the High Court exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, does not adjudicate hotly disputed questions of facts. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable.”

43. Therefore, it is well settled that the writ jurisdiction under Article 226 is not to be invoked where the dispute involves serious disputed questions of fact, or where the petitioner has an efficacious and adequate alternative remedy under ordinary civil law.
44. This Court is of the considered opinion that the present writ petition hinges on complex and disputed questions of fact, particularly concerning the execution, validity, and consequences of the registered lease deed dated 26.10.2018 and associated documents of assignment/surrender. The Petitioner, while alleging fraud and impersonation, seeks to challenge a series of private transactions governed by contract law, supported by documentary evidence including a registered lease deed bearing his own signatures and a forensic report ruling out forgery. Such issues whether the petitioner was defrauded, whether the lease was executed

under duress or impersonation, or whether valid consideration was exchanged, cannot be adjudicated in the summary writ jurisdiction under Article 226, which is not equipped to conduct a full-fledged trial involving oral evidence and cross-examination, any declaration as to the validity or otherwise of the lease deed necessarily involves consideration of factual issues which cannot and ought not to be gone into in writ proceedings.

45. This Court is of the considered view that the present writ petition hinges upon complex and substantial disputed questions of fact, particularly concerning the execution, validity, and legal implications of the registered lease deed dated 26.10.2018 and related documents of assignment and surrender. The petitioner, while leveling allegations of fraud and impersonation, essentially seeks to annul a chain of private contractual transactions that are substantiated by registered instruments and corroborated by forensic evidence. In the considered opinion of this Court, such disputed and interwoven questions of fact demand a full-fledged trial, and are not appropriate for adjudication under writ jurisdiction. Such issues must be pursued before an appropriate civil forum competent to undertake a detailed examination of evidence.
46. Issue 1 is accordingly answered in favour of the private respondent and against the petitioner.

Whether the petition involves any infringement of public law right or raises public law concern warranting interference under Article 226 of the constitution ?

47. The primary relief sought by the petitioner pertain to alleged irregularities and fraud surrounding the execution of a registered lease deed dated 26.10.2018, subsequent assignment and surrender documents, and internal dealings between private parties relating to ownership and management of an industrial unit. The petitioner also assails the issuance of NOCs by the official respondents, alleging that such permissions were granted without due notice and contrary to the applicable industrial policy.
48. At its core, however, the dispute stems from private commercial dealings between the petitioner and the private respondents, concerning rights flowing from a lease and contractual transactions. These are matters squarely falling within the realm of private law and contract, rather than involving any breach of statutory duty or violation of constitutional or public law rights.
49. Merely because official respondents are impleaded does not, by itself, confer a public law character upon the lis. There must be a demonstrable breach of public duty or violation of constitutional/statutory provisions for the invocation of writ jurisdiction under Article 226.
50. The present petition, viewed in its entirety, is an attempt to give a public law colour to what is fundamentally a private dispute. No

specific statutory provision has been pointed out as having been violated by the official respondents in granting permissions or inaction. Even assuming procedural lapses, such claims would require detailed factual adjudication better suited to civil proceedings.

51. The Hon'ble Supreme Court has repeatedly held that writ jurisdiction is not the appropriate remedy, where the dispute involving private rights, contractual obligations, particularly where serious disputed questions of fact arise. Reference may be made to **State of Bihar v. Jain Plastics & Chemicals Ltd., (2002) 1 SCC 216**, the relevant para is reproduced as under:

“2. Settled law writ is not the remedy for enforcing contractual obligations. It is to be reiterated that writ petition under Article 226 is not the proper proceedings for adjudicating such disputes. Under the law, it was open to the respondent to approach the court of competent jurisdiction for appropriate relief for breach of contract. It is settled law that when an alternative and equally efficacious remedy is open to the litigant, he should be required to pursue that remedy and not invoke the writ jurisdiction of the High Court. Equally, the existence of alternative remedy does not affect the jurisdiction of the court to issue writ, but ordinarily that would be a good ground in refusing to exercise the discretion under Article 226.”

52. Further, the Hon'ble Supreme Court in the case titled "**Joshi Technologies International Inc. v. Union of India, (2015) 7SCC 728**, has held that the writ jurisdiction is primarily designed to ensure public law remedies, and is not to be employed for adjudication of private contractual disputes, particularly where such disputes require adjudication of facts and are governed by a complete and adequate statutory remedy. The relevant para is as under:

“55. Law in this aspect has developed through catena of judgments of this Court and from the reading of these judgments it would follow that in pure contractual matters the extraordinary remedy of writ under Article 226 or Article 32 of the Constitution cannot be invoked. However, in a limited sphere such remedies are available only when the non-Government contracting party is able to demonstrate that it is a public law remedy which such party seeks to invoke, in contradistinction to the private law remedy simpliciter under the contract. Some of the case law to bring home this cardinal principle is taken note of hereinafter.”

53. In the present petition the specific case of the petitioner and the subject matter of the present petition is essentially a private dispute between the petitioner and private respondents and through material concealment, a camouflage of a writ petition is given to a purely private civil dispute. From the record, it emerges that the case of the petitioner is essentially a private

dispute between the petitioner and the private respondents. However, under the guise of invoking the extraordinary writ jurisdiction of this Court, the petitioner has attempted to give a colour of public law to what is, in substance, a purely private lis. The pleadings disclose material concealment and selective disclosure of facts, thereby camouflaging a civil dispute as falling within the purview of Article 226 of the Constitution of India.

54. This Court, therefore, holds that the writ petition does not disclose any public law element or breach of statutory duty that would justify invoking its jurisdiction under Article 226 of the Constitution. The petitioner's grievance pertains essentially to a private dispute governed by contract and property law, and the proper remedy lies before a civil court. The writ petition is thus liable to be dismissed on this ground alone.
55. Therefore, this Court refrains from entertaining the present writ petition on the issue of maintainability, leaving it open to the petitioner to avail the appropriate remedy before the competent civil court in accordance with law. This court in the peculiar facts and circumstances of the case, will not venture into the merits of the controversy and the merits of the case have been discussed only for a limited purpose of deciding the instant petitioner on the ground of maintainability. This issue is accordingly answered in favour of the private respondents.

56. ***Whether the writ petition suffers from delay and laches, and is thus barred by limitation, disentitling the Petitioner to equitable relief under Article 226?***
57. It is an admitted position on record that the petitioner seeks to assail certain actions, including the execution of the registered lease deed dated 26.10.2018 and issuance of NOCs/notifications dated 17.05.2018 and 29.06.2018. The present writ petition, however, has been filed in 2023 after a delay of nearly more than five years from the accrual of the alleged cause of action.
58. The petitioner has failed to offer any cogent, credible, or satisfactory explanation for this inordinate delay. The only justification faintly suggested is the alleged fraudulent conduct of the private respondents and lack of prior notice. However, records reveal that the petitioner had knowledge of the lease deed as early as 2018, as evidenced by the filing of an FIR in that very year. That being the case, the plea of lack of knowledge or discovery of fraud at a later stage is untenable and contrary to admitted position.
59. It is well settled that though Article 226 does not prescribe a rigid limitation period, the principles of equity, delay, and laches apply with full force. A writ remedy is discretionary, and a litigant who sleeps over his rights cannot be permitted to approach the writ court belatedly and seek equitable relief.

60. The Hon'ble Supreme Court, in **Mrinmoy Maity v. Chhanda Koley**, 2024 SCC OnLine SC 551, reiterated that:

“13. Reinterring the aspect of delay and laches would disentitle the discretionary relief being granted, this court in the case of Chennai Metropolitan Water Supply and Sewerage Board v T.T. Murali Babu, (2014) 4 SCC 108 has held:

16Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.”

61. The Hon'ble Apex court in case titled as **Shiv Dass vs Union Of India And Ors** reported as 2007(9) SCC 274 has laid down that:

“Normally, in the case of belated approach writ petition has to be dismissed. Delay or laches is one of the factors to be borne in mind by the High Courts when they exercise their discretionary powers under [Article 226](#) of the Constitution of India, 1950 (in short the 'Constitution'). In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court.”

62. Furthermore, it is significant that even a civil suit for challenging the lease deed or related documents would now be barred by limitation. Permitting the petitioner to agitate the same issue through a writ petition would amount to circumventing the statutory bar through indirect means which is something this Court cannot tolerate.
63. It is further submitted that the question of delay assumes particular significance in the present case, especially in view of the fact that the petitioner's remedy before the civil court stands extinguished by the law of limitation. The petitioner has allowed

more than five years to pass before approaching this court to invoke the extraordinary writ jurisdiction to indirectly secure relief that is otherwise time-barred. The present writ petition thus appears to be a calculated attempt to circumvent the statutory bar and resurrect a stale cause of action through this petition unwhic is impermissible in law and cannot be countenanced by this Court.

64. This Court, therefore, finds that the writ petition suffers from unexplained and inordinate delay and laches, and is also barred by the principles of limitation. The petitioner, having slept over his rights for nearly more than five years without adequate justification, is not entitled to invoke the extraordinary jurisdiction of this Court under Article 226. The petition, on this ground as well, deserves to be dismissed.

This issue is decided accordingly.

Whether the Petitioner has suppressed material facts relevant to the controversy, thereby affecting the bona fides of the petition and warranting dismissal on that ground alone?

65. The petitioner's challenge is predicated on the assertion that the lease deed dated 26.10.2018 and related documents were executed without his knowledge, and in violation of policy and procedural safeguards. However, on scrutiny of the record, it is found that the petitioner himself was a signatory to the said lease deed and other consequential documents, including the surrender deed and the assignment confirmation.

66. Not only was the petitioner aware of these documents, but he had also pursued criminal proceedings in 2018, indicating his knowledge and active participation in the underlying events. Despite this, the original writ petition failed to disclose the existence of these critical documents. It is only when objection was raised by the respondents in the unamended petition with a view to condone his fault/omission moved an amendment application to incorporate the said documents into the pleadings.
67. Such deliberate omission of material facts particularly documents that go to the root of the petitioner's case amounts to suppression and undermines the foundational principle that "one who seeks equity must come with clean hands". The writ jurisdiction under Article 226 is discretionary in nature, and the concealment of facts disentitles a litigant from invoking this extraordinary jurisdiction.
68. This principle has been consistently reaffirmed by the Hon'ble Supreme Court. In **K.D. Sharma v. SAIL, (2008) 12 SCC 481**, the Court held:

"34. The jurisdiction of the Supreme Court under [Article 32](#) and of the High Court under [Article 226](#) of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the Writ Court must come with clean hands, put forward all

the facts before the Court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim.”

69. In **Prestige Lights Ltd. v. SBI**, reported as (2007) 8 SCC 449, the Supreme Court held:

“33. It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a Writ Court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible..”

70. Recently, The Hon’ble Supreme Court in case titled as **Shri K. Jayaram vs Bangalore Development Authority** reported as (2022)12 SCC 815 held that :

“13.....39.If the primary object as highlighted in Kensington Income Tax Commrs.(supra) is kept in mind, an applicant who does not come with

candid facts and “clean breast” cannot hold a writ of the court with “soiled hands”. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, maneuvering or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court.”.”

71. In the present case, the petitioner not only suppressed material facts but also attempted to project a misleading narrative to establish a cause of action that may not have otherwise existed. The suppression is not incidental or minor, but goes to the very core of the lis. This Court cannot countenance such conduct.
72. In view of the above, this Court is of the considered opinion that the petitioner has indulged in suppression and concealment of material facts deliberately which vitiates the very foundation of the writ petition. Given the equitable and discretionary nature of writ jurisdiction, such conduct disqualifies the petitioner from seeking any relief. The petition, therefore, deserves to be

dismissed on this ground alone, irrespective of other grounds.

The issue is answered accordingly.

Whether this court ought to decline exercise of its writ jurisdiction under 226 of the Constitution and direct the petitioner to avail alternate remedies before the competent civil court ?.

This Court finds that in the circumstances of the instant case, writ jurisdiction should not be exercised and the Petitioner should be relegated to pursue appropriate remedies before the competent civil and criminal forums.

73. The disputes center on alleged forgery, breach of contract, dishonored cheques, and execution of lease and assignment documents. These are matters that are contractual and civil in nature, not public law in character. The Petitioner has already initiated Section 138 Negotiable Instrument Act proceedings and a civil suit for ₹25 Crores. These remedies are equally efficacious and exclusively designed for such disputes.
74. It is well settled that where an effective alternate remedy exists, writ jurisdiction is to be exercised sparingly, particularly in matters arising out of contractual disputes involving disputed question of fact. **The Hon'ble Supreme Court in State of Bihar v. Jain Plastics & Chemicals Ltd. (2002) 1 SCC 216 held:**

“3. Settled law-A writ is not the remedy for enforcing contractual obligations. A writ petition under Article 226 is not the proper proceedings for adjudicating such disputes. Under the law, it was open to the respondent to approach the court of competent jurisdiction for appropriate relief for breach of contract. When an alternative and equally efficacious remedy is open to the litigant, he should be required to pursue that remedy and not invoke the writ jurisdiction of the High Court. Equally, the existence of alternative remedy does not affect the jurisdiction of the court to issue writ, but ordinarily that would be a good ground in refusing to exercise the discretion under Article 226.”

75. Similarly, The Hon’ble Supreme Court in **Rajasthan State Industrial Development & Investment Corp. v. Diamond & Gem Dev. Corp. (2013) 5 SCC 470** reaffirmed that:

“39.....It is a settled law that writ does not lie merely because it is lawful to do so. A person may be asked to exhaust the statutory / alternative remedy available to him in law.”

76. The Telangana High Court in case titled as **Kotagiri jay Kumar Versus State of Telangana**, through its Principal Secretary (MAUD) and Others reported as **2024 SCC OnLine TS 45** has unequivocally held that:

“18.....70.11. The scope of judicial review in respect of disputes falling within the domain of contractual obligations may be more limited and in doubtful cases the parties may be relegated to adjudication of their rights by resort to remedies provided for adjudication of purely contractual disputes.”

77. In light of the above, Issue No. 5 is decided in favor of the Respondents.

CONCLUSION.

78. In light of the foregoing, and also keeping in view the law laid down by the Hon'ble Supreme Court, submissions of the learned counsel for the parties and upon a careful perusal of the record, this Court is of the considered opinion that the present writ petition is not maintainable. The petitioner's grievances fundamentally arise from private contractual disputes involving allegations of impersonation, forgery, and lack of consent, all of which necessitate detailed factual inquiries, examination of evidence, and credibility assessments that lie beyond the scope of writ jurisdiction under Article 226. The writ jurisdiction, being extraordinary and discretionary, is not designed to supplant civil courts in adjudicating private disputes hinging on contested facts and documentary evidence.
79. Moreover, the nature of the lis, in substance and effect, is clearly rooted in the realm of private law. The dispute pertains to commercial dealings and transfer of rights in immovable property pursuant to a lease deed, assignment agreement, and related instruments, all executed in a private capacity. The involvement of official respondents in granting NOCs or permissions, though sought to be portrayed as

giving rise to a public law concern, does not alter the essential character of the controversy. There is no allegation of any statutory duty breached by public authorities, nor any assertion of violation of constitutional or fundamental rights. The mere presence of official respondents in a matter otherwise dominated by private contractual disputes does not elevate the cause to one warranting judicial review under Article 226.

80. Further, the petitioner's conduct in approaching this Court suffers from serious infirmities. The record reveals that the petitioner was fully aware of the lease deed and its consequences as far back as the year 2018. He had even initiated criminal proceedings alleging impersonation, which were closed after forensic evidence confirmed the authenticity of the signatures. Yet, the petitioner chose to remain silent for over five years, making no effort to approach any competent forum for redressal. The delay is not only inordinate but also unexplained in any credible manner. A party who sleeps over his rights for years together cannot be permitted to invoke the writ jurisdiction of this Court at his convenience, particularly when the cause of action is stale and appears to be resurrected only after having

exhausted other forums or facing procedural barriers due to limitation.

81. The conduct of the petitioner further weakens his claim to equitable relief. A careful reading of the pleadings indicate material suppression of facts and selective disclosure. Crucial documents, including the registered lease deed bearing the petitioner's own signatures, and subsequent instruments of surrender and assignment, were conspicuously omitted from the original pleadings and were introduced only after objections were raised by the respondents. Such conduct strikes at the root of the petitioner's bona fides and undermines the credibility of his narrative. A party seeking the discretionary relief of writ must approach the Court with candor and full disclosure. Any attempt to mislead the Court or suppress material documents disqualifies such a litigant from invoking the equitable jurisdiction of this Court.
82. In addition to these legal infirmities, it is evident that the petitioner already has, and indeed has availed, adequate and efficacious alternative remedies. The pendency of proceedings under the Negotiable Instruments Act and a civil suit for recovery of substantial sums arising out of the same transaction are clear indicators that the petitioner is well aware of the proper legal avenues available. The writ

jurisdiction is not a forum of first recourse in matters governed by the law of contracts, torts, and property. It is to be invoked sparingly and only in exceptional cases where public law elements are clearly established or where gross injustice would occur in the absence of intervention.

83. This Court is also conscious of its obligation to maintain judicial discipline, coherence, and procedural efficiency. Entertaining such a petition would not only blur the well-established boundaries between private and public law remedies but would also set an undesirable precedent of allowing parties to bypass the ordinary forums of civil adjudication by clothing their grievances in the language of constitutional rights. The writ court must guard against such attempts which, if entertained, would dilute the sanctity and purpose of Article 226 and encourage parallel proceedings in matters better left to adjudication before the civil courts.
84. In light of the aforesaid circumstances and the private nature of the dispute, and also the presence of disputed and complex factual issues, the material suppression of relevant documents, the inordinate and unexplained delay in approaching the Court, and the existence of alternative efficacious remedies, this Court finds no justification to exercise its writ jurisdiction.

85. Accordingly, the present writ petition stands ***dismissed*** as ***not maintainable***. However, it is made clear that nothing contained in this judgment shall come in the way of the petitioner from seeking appropriate relief before the competent civil or criminal courts having jurisdiction in accordance with law and if the law of limitation permits so, and the said court, if approached will decide the controversy on merits without being influenced by the observation made by this court which is only for a limited purpose to decide the issue of maintainability of the instant petition.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
01.08-2025
Mubashir

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| i. | Whether the Judgment is Reportable: | Yes |
| ii. | Whether the Judgment is Speaking: | Yes |