



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 10TH DAY OF JUNE, 2025
BEFORE
THE HON'BLE MR JUSTICE B M SHYAM PRASAD
CIVIL MISC. PETITION NO. 130 OF 2024

BETWEEN:

M/S ALPINE HOUSING DEVELOPMENT
CORPORATION LIMITED
NO. 302, ALPINE ARCH, NO.10,
LANDFORD ROAD,
BENGALURU - 560 027,
REPRESENTED BY ITS
JOINT MANAGING DIRECTOR,
MR S A RASHEED,
S/O SYED ABDUL ZAHIR,
AGED ABOUT 60 YEARS.

...PETITIONER

(BY SRI. VIVEK B.N., ADVOCATE)

AND:

1. SMT KANTHAMMA
AGED ABOUT 77 YEARS,
W/O LATE SRI P NARAYANASWAMY,
2. SMT JALAJAKSHI
AGED ABOUT 62 YEARS,
W/O NAGARAJ
3. SRI KUSHAL
AGED ABOUT 31 YEARS,
S/O SRI NAGARAJ.

Digitally
signed by
VANAMALA
N
Location:
High Court
of Karnataka



4. SRI VISHAL
AGED ABOUT 25 YEARS,
S/O SRI NAGARAJ
5. SRI RAVI N
AGED ABOUT 59 YEARS,
S/O LATE SRI P NARYANASWAMY
(FOR SELF AND AS KARTHA OF HIS HUF)
6. MISS SHEETAL
AGED ABOUT 27 YEARS,
D/O SRI RAVI N
7. SRI SHREYAS
AGED ABOUT 25 YEARS,
S/O SRI RAVI N
8. SRI UDAY KUMAR N
AGED ABOUT 57 YEARS,
S/O LATE SRI P NARAYANSWAMY
(FOR SELF AND KARTHA OF HIS HUF)
9. SRI HARSHAD
AGED ABOUT 25 YEARS,
S/O SRI UDAY KUMAR N
10. MISS AKSHATHA
AGED ABOUT 23 YEARS,
D/O SRI UDAY KUMAR N
11. SMT ANUPAMA
AGED ABOUT 47 YEARS,
W/O SRI UDAY KUMAR N
12. SRI N RAJU
AGED ABOUT 55 YEARS,



S/O LATE SRI P NARAYANSWAMY
(FOR SELF AND AS KARTHA OF HIS HUF)

13. SRI ROHITH
AGED ABOUT 25 YEARS,
S/O SRI N RAJU
14. SMT TEJESHWINI
AGED ABOUT 45 YEARS,
W/O SRI N RAJU
15. SMT RENUKA
AGED ABOUT 53 YEARS,
D/O LATE SRI P NARAYANSWAMY
(FOR SELF AND AS KARTHA OF HIS HUF)
16. SRI SHAMANTH
AGED ABOUT 30 YEARS,
S/O SMT RENUKA
17. SRI N LOKESH
AGED ABOUT 51 YEARS,
S/O LATE SRI P NARAYANSWAMY
18. SMT AMRAVATHI
AGED ABOUT 45 YEARS,
W/O SRI N LOKESH
19. SRI N VENKATESH
AGED ABOUT 47 YEARS,
S/O LATE SRI P NARAYANSWAMY
(FOR SELF AND AS KARTHA OF HIS HUF)
20. SMT LATHA
AGED ABOUT 37YEARS,
W/O SRI N VENKATESH.



21. SMT. PANKAJA
AGED ABOUT 51 YEARS,
W/O RAVI N.

ALL ARE RESIDING AT,
SY NO, 91/1, HORAMAVU AGRAHARA,
K R PURAM HOBLI,
BENGALURU RURAL,
BENGALURU - 560036.

...RESPONDENTS

(BY SRI.ROHITH V.R., ADVOCATE FOR R1 TO R21)

THIS CIVIL MISC. PETITION IS FILED UNDER
SECTION 11(4) OF THE ARBITRATION AND
CONCILIATION ACT, 1996, PRAYING TO APPOINT AN
ARBITRATOR IN TERMS OF THE ARBITRATION CLAUSE
XVI CONTAINED IN THE REGISTERED JOINT
DEVELOPMENT AGREEMENT DATED 07.06.2006 AT
ANNEXURE A ON BEHALF OF THE RESPONDENTS BY
ALLOWING THE PRESENT PETITION.

THIS PETITION, COMING ON FOR ADMISSION,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE B M SHYAM PRASAD



ORAL ORDER

The petitioner and the respondents are parties to the registered Joint Development Agreement dated 07.06.2006. The petitioner has agreed to develop the respondents' immovable property on terms. The Joint Development Agreement indisputably has an agreement for arbitration, which reads as under:

"In the event of any disputes or differences arising between the parties pertaining to any rights or obligations under this agreement, the validity, performance, discharge, enforcement or breach of this agreement or any other issue arising out of or relating to or having any nexus with any of the terms of this agreement, the same shall be referred to arbitration by 3 arbitrators, one arbitrator being nominated by the party making the claim, another being nominated by the party against whom the claim is made and the two arbitrators so nominated nominating the third Arbitrator. The place of arbitration shall be at Bangalore,



In the event of any matter or issue or term required or specified as to be decided by mutual consent between the parties by this agreement, in the event of the parties not being able to arrive at such decision, the parties shall be bound by the decision arrived at by 3 arbitrators, one appointed on behalf of the owners and the other being appointed by the developer and the third being appointed by the two arbitrators so appointed. The arbitrators may decide such matters taking into account prevalent market conditions, practices and based on what they find to be reasonable or just."

2. The petitioner contends that there was no reason for raising a dispute until the respondents caused the Letter dated 11.11.2023 for the first time informing the petitioner that the Joint Development Agreement and the Power of Attorney are cancelled and revoked because the petitioner has abandoned the project. The petitioner asserts that this is contrary to the assurance to develop the property after the access road to the subject property is



widened so that there could be optimization of the FAR plan that would be permitted.

3. The petitioner has caused Notice dated 02.02.2024 advertizing to the Agreement of Arbitration as aforesaid and seeking the respondents' consent to appoint a former Judge of this Court as the sole Arbitrator. The petitioner has produced acknowledgments to establish that the notice is served on the respondents, and in addition, the petitioner has produced Reply caused on behalf of the respondents dated 22.02.2024. The respondents have raised the question of limitation, and in fact, the respondents have filed the pleadings in the present case contending that the petition must be rejected on the ground of limitation.

4. The respondents assert that construction of the road is completed with purchase of an extent of 8 guntas for such purposes under the Sale Deed dated 20.10.2008. The respondents have also



referred to their response dated 11.11.2023 in response to the Communication dated 17.10.2023. The question: whether this Court can opine at this stage that the petitioner's claim under the Joint Development Agreement is a *deadwood* because of the limitation is considered in the light of the circumstances. This Court opines that the question of limitation must be examined in the arbitral proceedings with liberty to both the parties to take up necessary contentions in that regard and the claim cannot be dismissed as a *deadwood* at this stage because the circumstances in which correspondences are exchanged and the import thereof must be examined after due evidence is tendered in this regard. In the light of the afore, the following:

ORDER

- [a] The petition is allowed.
- [b] Hon'ble Mr. Justice P Krishna Bhat, a former Judge of this Court is



appointed as the sole Arbitrator to enter reference of the dispute between the petitioner and the respondent and conduct the proceeding at the Arbitration and Conciliation Centre (Domestic and International), Bengaluru according to the Rules governing the Centre.

- [c] The Registry is directed to communicate this order [by E-mail] to the Arbitration and Conciliation Centre (Domestic and International), Bengaluru and also to the Hon'ble Mr. Justice P Krishna Bhat, a former Judge of this Court, Address: "Vasishta", No.41, Near Ganesh Emerald, Judicial Layout, 3rd Phase, Hejjala, Bidadi, Bengaluru-562 109 [e-mail: krishnabhat46@gmail.com] as



required under the Appointment of
Arbitrators by the Chief Justice of
Karnataka High Court Scheme, 1996.

**Sd/-
(B M SHYAM PRASAD)
JUDGE**

AN/-