



CNR: KAHC010038752026

NC: 2026:KHC:47945-DB
COMAP No. 49 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

COMMERCIAL APPEAL NO. 49 OF 2026

BETWEEN:

1. MR. SIDDHARTH BASAVARAJAGOUNDA
S/O BASAVARAJAGOUNDA GANEKAL
AGED ABOUT 28 YEARS
RESIDING AT
PRESTIGE HIGH FILEDS
10328, FINANCIAL DISTRICT
HYDERABAD -500 033

...APPELLANT

(BY MS. AISHWARYA JAYAKUMAR, ADVOCATE)

AND:

1. M/S GSTAAD HOTELS PRIVATE LIMITED
HAVING ITS REGISTERED OFFICE AT:
4TH FLOOR, RAHEJA CHAMBERS
LINKING ROAD, SANTACRUZ WEST
MUMBAI – 400 050

ALSO AT:
24/1, VITTAL MALLYA ROAD
K.G. HALI, SHANTALA NAGAR
ASHOK NAGAR
BENGALURU – 560 001
REPRESENTED BY ITS
DIRECTOR
DEEPAK RAHEJA



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2. M/S JW MARRIOTT BENGALURU
JW KITCHEN
REPRESENTED BY
MR. GAURAV SINHA
24/1, VITTAL MALLYA ROAD
KG HALLI, SHANTALA NAGAR
ASHOK NAGAR
BENGALURU – 560 001
3. MR NAVJOT SINGH HORA
S/O BHUPENDRA SINGH HORA
AGED ABOUT 30 YEARS
RESIDING AT:
FLAT NO. 402, PARIJAT HEIGHTS
NEHRU NAGAR
PARIJAT EXTENSION
BILASUR
CHATTISGARH – 495 001
THROUGH HIS GPA HOLDER
MR. ANMOL HORA
4. MR. ANMOL HORA
S/O BHUPENDRA SINGH HORA
AGED ABOUT 28 YEARS
RESIDING AT:
FLAT NO. 402, PARIJAT HEIGHTS
NEHRU NAGAR
PARIJAT EXTENSION, BILASPUR
CHATTISGARH – 495 001

...RESPONDENTS

(MS. PRAKRUTHI RAMESH RAJU, ADVOCATE FOR C/R2 TO R4)

THIS COMMERCIAL APPEAL IS FILED UNDER SECTION 13 OF THE COMMERCIAL COURTS ACT, 2015 R/W ORDER XLIII RULE 1 OF THE CODE OF CIVIL PROCEDURE, 1908 PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 18.11.2025 PASSED BY THE LEARNED LXXXIX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, (CCH-90) ON I.A. NO.3/2025 IN COMM.O.S. NO.1452/2025 FILED UNDER ORDER XXXIX RULE 4 OF CPC & ETC.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



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CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present appeal under Section 13(1A) of the Commercial Courts Act, 2015, impugning an order dated 18.11.2025 [**impugned order**] passed by the learned LXXXIX Additional City Civil and Sessions Judge, Bengaluru [**Commercial Court**], in I.A No.2 and I.A No.3 in Com.O.S No.1452/2025. I.A No.2 was filed by the appellant (plaintiff) under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 [**CPC**]. And, I.A No.3 was filed by respondent No.2 under Order XXXIX Rule 4 of the CPC for vacating the *ex parte* ad interim order granted in favour of the appellant (plaintiff) on 18.10.2025.

2. The appellant (plaintiff) had filed the said suit against the respondents, *inter alia* praying for specific performance of the Conducting Agreement dated 04.08.2023 [hereafter, '**the conducting agreement**']. The appellant prayed that directions be issued to restore possession of the subject premises to the



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appellant and to permit the appellant to complete the construction and operate a restobar/ night club in the subject premises. The appellant, in the alternative, prayed for damages quantified at ₹5 Crore and further, an order restraining the respondents from transferring or creating any third-party rights in respect of the subject premises.

3. The parties entered into the conducting agreement on 04.08.2023. Under the conducting agreement, the appellant was granted permissive use of a demarcated portion measuring 3,500 sq. ft. of carpet area on the ground floor of the premises at Hotel JW Marriott to operate a restobar/night club under the franchise of an internationally reputed brand. The term of the conducting agreement was 9 years, effective from 21.04.2023 to 24.02.2032. It also provided for a lock-in period of 3 years.

4. The appellant claimed that he had paid a sum of ₹2 crore as security deposit as agreed in terms of the conducting agreement. The appellant has also averred that respondent No.1 was entitled to retain 20% of the sales from the said premises subject to



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minimum guarantees and escalation. There is no dispute that the minimum guarantee as assured was ₹20 lakh per month.

5. The learned Commercial Court has set out certain relevant clauses of the conducting agreement which are reproduced herein:

“Clause-3: TERM OF AGREEMENT: The duration of this Agreement shall be for a period of 9 (nine) years, deemed to be commencing from 21st April 2023 upto 20th April 2032 (“Term”). It is further agreed that the first 3 (three) years commencing from 21st April 2023, shall be the lock in period (LOCK IN PERIOD), during which period, the Conduct shall not be entitled to terminate this agreement, other than for reasons as set out under Clause 15 of this agreement.

Clause-4: COMMENCEMENT OF OPERATIONS: That, the owner shall on the execution of this Agreement permit the Conduct to access the said premises for the purpose of running and operating the Restaurant & bar at the said premises. The duplicate keys to the said premises shall be handed over to the Conductor and the original shall be retained by the owner. Conduct shall ensure commencement of operations as per the international brand specifications latest by 01st September 2025.

Clause 6: MINIMUM GUARANTEED RETAINING AMOUNT FOR THE OWNER: In consideration of the Owner allowing the Conductor to run and operate the Restaurant and Bar from the said premises, the owner, will be entitled to retain twenty percent (20% of the net sales) out of the Net Sales in the manner as stipulated hereunder (“Retaining Amount”) which will be paid in advance by 5th of every month.

The parties agree that there will be a fixed fifteen percent (15%) escalation every 3 years on the minimum guaranteed retaining amount.



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Period	Minimum Guaranteed Retaining amount
Fit out period i.e., from 21 st April 2023 to 31 st July 2023,	NIL
From 01 st August 2023 till 20 th April 2032	INR 20,00,000/- (Indian Rupees Twenty Lakhs only) per month OR 20% of the net sales, whichever is higher. & 15% escalation every 3 years on Minimum Guaranteed Retaining Amount

Security Deposit: - Conductor shall give ₹.2,00,00,000/- Interest free deposit to the owner which would repayable on termination of the agreement after adjusting any dues including reimbursable.

Clause-10: It is expressly understood that this Agreement does not confer any right of tenancy, sub-tenancy, leave and license or any other right whatsoever over said premises and the Conductor shall manage and conduct the said Restaurant from the said premises as a Conductor of the owner only.”

6. The learned Commercial Court found that the appellant had not paid the minimum guarantee as payable under clause 6 of the conducting agreement from 04.08.2023. The Commercial Court specifically noted that, on perusal of the plaint and the documents, it found no document to substantiate that the appellant had paid the minimum guarantee of ₹20 lakh per month from August 2023. It is also noted that the averments made in the plaint were deficient in



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this regard. Additionally, the learned Commercial Court noted that under Clause 12 of the conducting agreement, it was specifically agreed that the appellant would get no right or interest in the subject premises, which would remain in the possession of respondent No.2.

7. Respondent No.1 had also produced an email communication dated 01.10.2023 putting the appellant to notice that as on that date, he was liable to pay ₹18 lakh towards security deposit and rental of ₹60 lakh. Respondent No.1 stated that it had thereafter, issued a termination notice terminating the conducting agreement.

8. In the aforesaid premises, the learned Commercial Court vacated the interim order granted in favour of the appellant by the impugned order.

9. The learned counsel appearing for the appellant submitted that the trial court conducted a mini trial and effectively rendered findings prejudicial to the appellant. She also contended that there



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is no default on the part of the appellant in performing the obligations under the conducting agreement.

10. It is apparent that the findings of the learned Commercial Court and the observations made in the impugned order are solely for the purpose of deciding the interim applications; none of the said findings can be held to be conclusive at the final stage. We find no merit in the contention that the learned Commercial Court should have refrained from giving any findings at this stage. It is settled law that the trial court has to examine the *prima facie* case, balance of convenience and the necessity of issuing any interim order at the interim stage if any interim relief is sought. The assumption that the trial court must decide the application under Order XXXIX Rules 1 and 2 of the CPC on a demurrer solely on the basis of the plaintiff's averments is without basis.

11. Insofar as the *prima facie* finding to the effect that the appellant has not fulfilled the obligation under the conducting agreement is concerned, we find that there is no serious dispute that the appellant had not paid the minimum guarantee in terms of Clause 6, which was to be paid from 01.08.2023. There is a



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specific finding to that effect by the learned Commercial Court. However, there is no averment in the appeal contesting the said finding on merits, and the appellant has produced no material on record to controvert the same.

12. We are unable to accept that the impugned order has been passed in disregard of any settled principles of law and warrants any interference by this court.

13. The appeal is accordingly dismissed.

14. The pending interlocutory application also stands disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(K.S. HEMALEKHA)
JUDGE**