IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH 2026

BEFORE

THE HON'BLE MR. JUSTICE H. T. NARENDRA PRASAD

WRIT PETITION NO. 4997 OF 2026 (GM-CPC)

BETWEEN:

ROYAL ORCHID HOTELS LTD.,
A COMPANY INCORPORATED UNDER THE
COMPANIES ACT, 1956, HAVING ITS
REGISTERED OFFICE AT # 1, GOLF
AVENUE, KODIHALLI, ADJOINING (KGA)
GOLF COURSE, AIRPORT ROAD
BANGALORE-560 008
REP. BY ITS AUTHORIZED REPRESENTATIVE
MR. AMIT JAISWAL

... PETITIONER

(BY SRI. ARUN KUMAR, SENIOR COUNSEL FOR
SRI. PRADYUMNA L NARASIMHA, ADVOCATE)

AND

ROCK REALTY PVT. LTD.,
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956, HAVING
ITS REGISTERED OFFICE AT A/6
HERMES PARK SOCIETY, 30 BUND
GARDEN ROAD, PUNE-411 001
REPRESENTED BY ONE OF ITS
DIRECTORS.

... RESPONDENTS

(BY SRI. ANUBHAB SARKAR, ADVOCATE FOR C/RESPONDENT)

THIS WRIT IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING THE ORDER DATED:12.02.2026 IN IA NO. 1/2025 PASSED BY THE XXXVIII ADDL. CITY CIVIL AND SESSIONS JUDGE, BANGALORE IN A.P.NO.54/2024 (ANNEXURE-A) AND ETC.

THIS WRIT PETITION, HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 10.03.2026, COMING ON FOR PRONOUNCEMENT, THIS DAY, THE COURT, MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

CAV ORDER

1. In this writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioner is challenging the order dated 12.02.2026 passed by the XXXVIII Additional City Civil and Sessions Judge, Bengaluru, on I.A.No.1/2025 filed under Section 36(2) and (3) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') in Arbitration Petition No.54/2024 vide Annexure-A.

2. Brief facts of the case are that the petitioner is operating a star hotel on a portion of the land more fully described as Schedule 'A' property of the writ petition. In 2006, a portion of Schedule 'A' property more fully described as Schedule 'B' property was leased to the petitioner by the erstwhile owner, one M/s.Just Homes Pvt. Ltd. Subsequently, in the year 2011, the scheduled properties were sold in favour of the respondent. Hence, a Tripartite Agreement dated 26.10.2012 was executed between M/s.Just Homes Pvt. Ltd., the petitioner and the respondent herein, attorning the lease of schedule 'B' property in favour of the petitioner. Initially, the said property was leased for a period of 10 years commencing from 17.07.2006, with a condition providing for deemed renewal for a further period of 10 years. Since the respondent did not renew the lease period in terms of the agreement, the petitioner initiated arbitration

proceedings before the Arbitral Tribunal in A.C. No.51/2021. The Arbitral Tribunal, by award dated 10.09.2024 passed in A.C. No.51/2021, rejected the relief of specific performance sought by the petitioner. Aggrieved by the said award, the petitioner filed Arbitration Petition No.54/2024 under Section 34 of the Act before the XXXVIII Additional City Civil and Sessions Judge, Bengaluru (for short 'the Trial Court'). Along with the said petition, the petitioner also filed an application under Sections 36(2) and (3) of the Act read with Section 151 of CPC seeking stay of the operation of the award dated 10.09.2024 passed in A.C. No.51/2021. By order dated 12.02.2026, the said application came to be rejected vide Annexure-A. Aggrieved by the same, the petitioner is before this Court.

3. Learned Senior Counsel appearing for the petitioner has raised the following contentions:

a) Firstly, it is contended that the Trial Court has failed to exercise the discretionary power vested under Section 36 of the Act. It is contended that the petitioner had made out a prima facie case and the balance of convenience also lies in favour of the petitioner, yet the Trial Court committed an error in rejecting the application.

b) Secondly, the specific case of the petitioner is that the Arbitral Tribunal itself has recorded a finding that the respondent committed breach of the lease agreement, but nevertheless declined the relief of specific performance sought by the petitioner for renewal of the lease for a further period of ten years. It is therefore contended that when the award itself discloses a prima facie breach, the Trial Court ought to have granted stay of the operation of the award.

c) Thirdly, the petitioner has raised a ground that the award has been passed contrary to the agreement

between the parties. It is further submitted that the Trial Court, without recording any finding as to whether the petitioner had made out a prima facie case or whether the balance of convenience lies in his favour, dismissed the application only on the ground that the petitioner had not paid the monthly rent as directed under the award dated 10.09.2024. It is contended that the petitioner had in fact paid certain sums of rent until the date of filing of the petition under Section 34 of the Act. It is further contended that after the impugned award was passed, the respondent locked the premises and obstructed the petitioner from carrying on the hotel business in the property in question, due to which the rent could not be paid regularly. According to the learned senior counsel, this aspect of the matter has not been considered by the Trial Court.

d) Fourthly, the Trial Court has relied upon the affidavit filed by the petitioner before the Arbitral Tribunal wherein the petitioner had stated that handing over and delivery of possession of the property to the respondent had no nexus with the monetary claims of the respondent. Learned senior counsel submitted that the said undertaking was given subject to certain conditions and since the respondent did not accept the conditions therein, the petitioner did not act upon the said undertaking. However, the Trial Court has heavily relied upon the said affidavit while rejecting the application.

e) Fifthly, it was also brought to the attention of the Trial Court that the award itself records that the respondent had breached the terms of the agreement but nevertheless it proceeded to hold that the respondent is not required to specifically perform the contract. It is contended that though an issue was

framed regarding readiness and willingness, the Tribunal has not recorded any finding on the said aspect. It is also contended that the Tribunal has failed to arrive at any finding with regard to the differential amount payable to the respondent. According to the learned senior counsel, the petitioner has established that the award is contrary to the fundamental policy of Indian law and several findings recorded therein are unsustainable.

f) Sixthly, it is further contended that non-grant of stay of the award, as prayed for, would render the petition filed under Section 34 of the Act infructuous and leave the petitioner without an effective remedy. Learned senior counsel submitted that a grave and immediate threat of dispossession was brought to the notice of the Trial Court. It was also contended that the petitioner has suffered an unreasoned and unsubstantiated award which, according to the

petitioner, is violative of the fundamental policy of Indian law and patently illegal. In those circumstances, the petitioner was constrained to challenge the arbitral award dated 10.09.2024 before the Trial Court. It was further contended that reliance was placed on several judgments of the Hon'ble Supreme Court in support of the prayer for grant of stay under Section 36 of the Act, and that the petitioner had demonstrated a prima facie case. However, according to the learned senior counsel, the Trial Court failed to consider the said submissions and judgments, and the impugned order therefore suffers from non-compliance with the provisions of the Act and is liable to be set aside.

g) Seventhly, it is also contended that the Trial Court has failed to apply its mind to the factual and legal background of the case and that such failure has caused serious prejudice to the petitioner. Learned

senior counsel submitted that the impugned order suffers from manifest error and reflects a failure to exercise jurisdiction properly. It was further contended that the Trial Court has not appreciated the gravity of the situation and the circumstances faced by the petitioner on account of the respondent's unilateral actions and the imminent threat of dispossession from the hotel premises, which the petitioner claims to be in lawful possession of. It is therefore contended that the impugned order is contrary to law and calls for interference by this Court.

h) Lastly, it is further contended that if the petitioner were to succeed in Arbitration Petition No.54/2024 and the award dated 10.09.2024 were to be set aside by the Trial Court, the petitioner would be entitled to re-agitate its rights under the agreement in terms of Section 34(4) of the Act. However, it was

submitted that if the operation of the award is not stayed and the petitioner is compelled to hand over possession of the hotel premises and dismantle the fixtures, the petitioner would be put to immense hardship. It was contended that during such period the hotel would become entirely non-operational, resulting in loss of business and revenue, thereby causing irreparable injury to the petitioner and that such irreparable loss would affect the rights of the petitioner available under Section 34(4) of the Act.

4. Per contra, learned counsel appearing for the respondent has raised the following counter-contentions:

a) Firstly, it is contended that the impugned order passed by the Trial Court under the provisions of the Arbitration and Conciliation Act, 1996, more particularly under Section 34 read with Section 36 of the Act, is not amenable to the writ jurisdiction of this

Court under Article 227 of the Constitution of India. According to the learned counsel, the said order is appealable under Section 37 of the Act, and therefore the present writ petition is not maintainable.

b) Secondly, he contended that the petitioner has already derived benefits under the arbitral award on two occasions. It is submitted that the lease in question admittedly expired on 15.01.2018, which is evident from the petitioner's own pleadings before the Arbitral Tribunal, the Trial Court, as well as in the present writ petition. Learned counsel submitted that under the arbitral award dated 10.09.2024 and clarification order dated 16.12.2024, the petitioner was permitted to continue its business operations in the subject premises until vacant and peaceful possession of the premises was handed over to the respondent on or before 10.09.2025 in accordance with the award passed. It is contended that the

petitioner has acted upon the said direction contained in the arbitral award by continuing its business operations in the premises and has also relied upon the said direction on two distinct occasions without seeking any stay of the award. Therefore, it is contended that the award, insofar as it relates to the petitioner's obligation to handover the possession of the premises on 10.09.2025, has attained finality under Section 35 of the Act and is enforceable under Section 36 of the Act.

c) Thirdly, it is contended that the respondent's challenge to the arbitral award in Com.A.P.No.36/2025 pertains only to the recovery of arrears of rent and is distinct from the respondent's right to recover possession of the premises, which has already attained finality. It is submitted that, in the petitioner's own words, the obligation to hand over possession of the subject premises has no nexus with

the respondent's monetary claims which form the subject matter of challenge in the proceedings before the Commercial Court, Bengaluru, in Com.A.P.No.36/2025. Learned counsel further submitted that it has been consistently held by the Hon'ble Supreme Court that a landlord's claim for recovery of possession and a claim for arrears of rent are separate and distinct causes of action. It is also contended that the petitioner has admitted the said position during the course of the arbitral proceedings. In this regard, reliance is placed on the following statement made by the petitioner in an application filed before the Arbitral Tribunal:

> *"09. I submit that the handing over and delivery of possession by us to the respondent has no nexus with the monetary demands of the respondent against us. Assuming, without admitting, that they are due, I state that such a claim or its adjudication will not come in the way*

of the respondent receiving possession of the schedule premises from the claimant.

d) Lastly, it is further contended that under the terms of the Contract as well as the directions under the Arbitral Award, the petitioner was required to pay rent regularly. However, the petitioner has failed to comply with this fundamental condition. Therefore, according to the learned counsel, the petitioner is not entitled to any equitable relief. In support of the said submissions, learned counsel has placed reliance on the judgments of the Hon'ble Supreme Court in ***Chintels India Limited v. Bhayana Builders Private Limited*** reported in ***(2021) 4 SCC 602***, ***Navayuga Engineering Company v. Bangalore Metro Rail Corporation Limited*** reported in ***2021 SCC OnLine SC 469***, and ***Kashi Math Samsthan and Another v. Shrimad Sudhindra Thirtha***

Swamy and Another reported in ***(2010) 1 SCC 689***.

5. Heard the learned counsel appearing for the parties. Perused the writ papers.

6. Insofar as the contention of the learned counsel for the respondent regarding the maintainability of the writ petition under Article 227 of the Constitution of India is concerned, the application filed by the petitioner was under Section 36(2) and (3) of the Act. An appeal under Section 37 of the Act is provided against an order passed under Section 34 of the Act, and that too in cases of setting aside or refusing to set aside the arbitral award. Therefore, as against an order passed under Section 36(2) and (3) of the Act, a writ petition under Article 227 of the Constitution of India is maintainable.

7. The preliminary ground raised by the respondent before the Trial Court is that the petition is not maintainable before the said Court since the dispute involved relates to a commercial dispute. In that regard, the petitioner has filed Misc.Petition.No.773/2025 under Section 24 of the Code of Civil Procedure before the Prl. City Civil & Sessions Judge, Bengaluru, seeking transfer of all pending proceedings to Court of competent authority. In an earlier round of litigation before this Court in W.P.No.28319/2025, this Court by order dated 17.09.2025 disposed of the writ petition with a direction to the Trial Court to dispose of the pending application for stay in Arbitration Petition No.54/2024 expeditiously, reserving liberty to the respondent to contest the application on all grounds including maintainability of the application. Accordingly, the Trial Court framed point No.2 in that regard, which

reads as "*Whether the respondent has made out a ground to dismiss Arbitration Petition No.54/2024 as the same is barred under Section 10(3) of the Commercial Courts Act?*". Since the Transfer Petition has been filed under Section 24 of the Code of Civil Procedure, the Trial Court has not recorded any finding on the said point.

8. Insofar as the point No.1 framed by the Trial Court, namely, "*Whether the applicant/petitioner has made out a ground to stay the operation of the Award dated 10.09.2024 passed in Arbitration Case No.51/2021?*", the Trial Court has answered the said point in the negative on two grounds. The first ground is that from 07.08.2024 to 29.08.2025, for nearly one year, the petitioner has not made any payment of rent to the respondent. In that regard, the specific contention of the petitioner is that the respondent had not allowed the petitioner to run the hotel business

smoothly in the premises thereby violating the Arbitral Award and Clarification Order and further that the premises were locked for some time. Due to the said dispute, the rent was withheld by the petitioner for some time. Thereafter, the rent for 12 months has been paid. The Trial Court has not examined the said contention while recording a finding that no rent has been paid for nearly one year. The second ground is that the petitioner had filed an affidavit in the arbitration proceedings undertaking that he would deliver the possession of the premises, subject to certain conditions. The specific case of the petitioner is that since the respondent has not accepted those conditions, the petitioner has not acted upon the said affidavit. The said affidavit was filed before the Arbitral Tribunal and thereafter the award came to be passed by the Arbitral Tribunal. The very award has been questioned before the Trial Court under Section

34 of the Act. This aspect of the matter has not been considered by the Trial Court.

9. Trial Court has not examined whether the contentions raised by the parties constitute bona fide contentions and whether the petitioner has made out any prima facie case, and on which side the balance of convenience would lie in the event of success. The Trial Court has also not considered whether there is any merit in the case and whether there exists any probability that the petitioner is entitled to relief and whether the balance of convenience lies in favour of the petitioner. The Trial Court has also not recorded any finding as to whether the petitioner would suffer any irreparable injury if the interim order is not granted. The Trial Court has mechanically passed the impugned order. Therefore, the matter requires to be remanded back to the Trial Court to reconsider the matter afresh in accordance with law.

10. Accordingly, the following order is passed:

ORDER

a) The writ petition is **allowed**.

b) The order dated 12.02.2026 passed by the XXXVIII Additional City Civil and Sessions Judge, Bengaluru, on I.A.No.1/2025 in Arbitration Petition No.54/2024 vide Annexure-A, is set aside.

c) The Trial Court is directed to reconsider the matter afresh and pass appropriate orders in accordance with law on or before 30th April 2026, without being influenced by any observations made in this order.

d) Till then, parties are directed to maintain status-quo.

e) Liberty is reserved to the parties to advance the case before the trial court.

Sd/-
(H. T. NARENDRA PRASAD)
JUDGE

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