



CNR: KAHC010199992023

NC: 2026:KHC:46851
WP No. 8906 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE JAYANT BANERJI

WRIT PETITION NO. 8906 OF 2023 (GM-CPC)

BETWEEN:

M/S BODY SCULPT HEALTH CLUB
PRIVATE LIMITED, A REGISTERED COMPANY
REGISTERED UNDER THE COMPANIES ACT, 1956
HAVING ITS OFFICE AT
NO.40/1, 2ND FLOOR,
CENTURY CORBEL COMMERCIAL,
SAHAKAR NAGAR MAIN ROAD,
(60 FT ROAD), BENGALURU-560 092.
REP. BY ITS MANAGING DIRECTOR
AND AUTHORIZED SIGNATORY
MR.K.R.RAVISHANKAR.

...PETITIONER

(BY SMT. ARCHANA K.M., ADVOCATE)

AND:

1. M/S CENTURY CORBEL,
A PARTNERSHIP FIRM,
UNDER THE COMPANIES ACT, 1956,
REP. BY ITS PARTNERS,
MR.P.ASHWIN PAI AND
MR.MAHESH PRABHU
2. MR. P ASHWIN PAI,
AGED ABOUT 42 YEARS,
S/O MR. SATHISH P. PAI,
3. MR. MAHESH PRABHU,
AGED ABOUT 45 YEARS,
RESPONDENT NOS.1 TO 3 ARE
R/AT: NO.10/1,
LAKSHMINARAYANA COMPLEX,

Digitally
signed by K S
RENTUKAMBA
Location:
High Court of
Karnataka



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GROUND FLOOR, PALACE ROAD,
BANGALORE-560 052.

...RESPONDENTS

(BY SRI CHANDAN, ADVOCATE FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE ORDER PASSED BY THE LXXXV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, AT BENGALURU (CCH-86), BENGALURU IN COM.O.S.NO.1185 OF 2022 DATED 06.04.2023 REJECTING THE IA FILED BY THE PLAINTIFFS/PETITIONERS UNDER ORDER XII RULE 6 R/W SECTION 151 OF CPC VIDE ANNEXURE-A, AND PASS ANY OTHER APPROPRIATE WRIT, DIRECTION AND ORDERS AS THIS HON'BLE COURT DEEMS FIT TO GRANT INCLUDING THE COSTS OF THIS PETITION.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI

ORAL ORDER

Heard learned counsel for the petitioner/plaintiff and learned counsel for the respondents/defendants No.1 to 3.

2. This petition is filed seeking to set aside the Order dated 06.04.2023 passed by the LXXXV Additional Civil and Sessions Judge (CCH-86), Bengaluru in COM.O.S.No.1185/2022, whereby the IA filed by the petitioner/plaintiff petitioner under Order XII Rule 6 read with Section 151 of the CPC has been rejected.



3. The plaintiff filed a money suit claiming a sum of Rs.4,81,80,000/- from the defendants jointly and severally along with interest at the rate of 12% p.a. The allegation in the plaint is that the defendant No.1 had leased the suit schedule property to the plaintiff by way of certain Lease Deeds. Under the terms of the lease, the 1st defendant having specially authorised the plaintiff to improve the lease property and provide modifications and furnishing to suit the requirement of the plaintiff, the plaintiff had spent several crores of rupees for modification and furnishing of the lease property. The allegation made was that the leased area and the area for which permission had been granted to the plaintiff was developed in such a manner by the plaintiff that there was no distinction between the area that was leased and the area for which only permission was given. The plaintiff sought to claim, in addition to the leased property, the other property that was only permitted by the defendant No.1 to be developed and used by way of a lease. Thereafter, a Lease Deed dated 31.10.2018 was executed in respect of suit schedule 'C' property by the defendant No.1 in favour of the plaintiff. A supplementary agreement dated 02.11.2018 was entered into



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between the parties. Further, a modified agreement dated 30.12.2019 was executed. It is stated that the defendant No.1 had not invested Rs.5,00,00,000/- or any portion thereof. It was alleged that the defendants are liable to return the amounts that were paid under the supplementary agreement. They are also liable to return the cheque of Rs.2,00,00,000/- given under the modification agreement. The liability of the defendants to pay the plaintiff amounted to Rs.4,81,80,000/-.

4. The written statement was filed. Thereafter, an application under Order XII Rule 6 of CPC dated 01.03.2023 was filed by the plaintiff which came to be rejected by means of the impugned order.

5. The application under Order XII Rule 6 CPC is at Annexure-F to this petition with the prayer that the suit be decreed to the extent of 3,30,00,000/-. Learned counsel has referred to paragraphs-4 and 5 of the affidavit filed in support of the application to contend that the paragraph Nos.8 and 12 of the written statement clearly reflect an admission made by the defendants and therefore, the suit can be decreed on the basis of that admission.



6. Paragraph Nos. 5, 6, 7, 12, 13 & 14 of the plaint,
read as follows:-

"5. The 1st Defendant had also leased a portion of the Schedule A property measuring 2,546 sq. ft., of super built up area to the plaintiff under lease Deed dated 26/02/2013 registered as Document No.GNR-1-02590-2012-13 in Book-I, Stored in CD No.GNRD 63 before the Sub-Registrar, Gandhinagar (Ganganagar); Bangalore. The copy of the said lease deed is produced herewith as ANNEXURE-II. The property leased under the said lease deed is morefully described in Schedule-B to this plaint and hereinafter referred to as the Schedule B Property. In addition permission was granted to use and develop additional area also.

6. At Clause 4 of the said Lease deed had authorized improvements to be made to the Schedule B property in a professional manner utilizing good quality materials. In that view of the matter, the said portion which was taken on lease was totally improved by the Plaintiff by spending Crores of Rupees.

7. The first defendant had specifically authorized the Plaintiff to improve the leased property and provide modifications and furnishing to suit the requirements of the Plaintiff. It is the Plaintiff which completed the entire modifications



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and furnishing works on Schedule A & B property. Not even one Rupee was spent by the 1st Defendant. The Plaintiff had spent several Crores of Rupees for modification and furnishing of the leased property and had provided good flooring, Italian marble, imported sports flooring, stretch ceiling systems, air-conditioning systems, Air handling units and so on.

XXXX XXXX XXXX XXXX

12. It is submitted that when the Plaintiff approached the Defendants to execute the Lease deed after having spent Crores of Rupees for providing modifications and furnishing of the leased property and the property agreed to be leased, the Defendants postponed the execution of the registered lease deed and in 2018, when the Plaintiff insisted for the same, the Defendants refused to do so. By that time, the Plaintiff had invested around Rs.15 Crores by taking bank loan. When the Defendants refused to execute the lease deed, the Plaintiff which had already invested around Rs.15 Crores was helpless. At that time, the Defendants collected several post-dated cheques and after collecting the same, the Defendants took an assurance from the Plaintiff that the Plaintiff would co-operate with the Defendants in executing any other document that the Defendants may deem necessary making it clear that if further documents are not executed,



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the Defendants would not allow business to be carried on by the Plaintiff.

13. Under the above circumstances; the Plaintiff had taken the property on lease after having issued several post-dated cheques (including the cheques which are mentioned in the Supplementary Agreement referred to herein below).

14. Under the above circumstances, the Plaintiff had entered into a lease deed dated 31/10/2018 which is registered as Document No.MLS-1-02464-2018-19 in Book I stored in CD No.MLSD147 before the Sub-Registrar, Gandhinagar (Malleshwaram) Bangalore with Defendant No.1 wherein Plaintiff had taken Schedule C Property herein on lease. The original lease deed is with the Defendant No.1. A copy of the lease deed dated 31/10/2018 is produced herewith as ANNEXURE-III. Under the said lease deed, Plaintiff had paid a sum of Rs.96,44,015/- (Rupees Ninety Six Lakhs Forty Four Thousand Fifteen Only) as interest free refundable security deposit. The same is returnable by the defendants to the plaintiff on the date the plaintiff delivers possession of the property leased to the plaintiff, to the defendant No.1. It is relevant to further submit that the area that was taken on lease is much more than what was needed by the Plaintiff. The Plaintiff took such larger area because the 1st



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Defendant had refused to execute the Lease Deed unless the extra area is also taken. However, on this, the Plaintiff is not complaining because after having taken extra area on lease, the Plaintiff has made use of the same".

7. The written statement is enclosed as Annexure-C and Paragraph Nos.8 and 12 read as follows:-

"8. Regarding paragraph Nos.5, 6 & 7 of the plaint:- Though the averments made in paragraph Nos.5, 6 & 7 of the plaint are all matter of record, the Plaintiff has deliberately explained only half truth. The true facts as explained in the response given at paragraph 7 above is reiterated and may be read as response to paragraph Nos.5, 6 & 7 of the Plaint as well."

XXXX XXXX XXXX XXXX

"12. Regarding paragraph Nos. 12, 13 and 14 of the plaint:- The averments made in paragraph Nos. 12, 13 and 14 of the plaint are here by denied as false, incorrect, baseless, frivolous, mischievous and the Plaintiff is put to strict proof of the same. It is submitted that the amounts spent by the Plaintiff towards modification and to furnish the leased premises was out of the rents payable to the Defendants and hence it has to be construed even logically that the said modifications were made by the Defendants as it



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was their money that was used to carry out such modifications. Further, the rents payable to Defendants was allowed to be used to carry out of the modifications based on the promise made by the Plaintiff that they will repay the same and it is under the above factual circumstances the supplementary agreement dated 02/11/2018 came to be executed. It is further submitted that, in compliance of the terms of the supplementary agreement dated 02/11/2018 Plaintiff has paid sum of Rs.3,30,00,000/- (Rupees three crores thirty lakhs only) towards repayment of the amounts agreed and applicable GST. It is also submitted that, the Plaintiff had requested additional time for repaying the balance amount of Rs.2,00,00,000/- (Rupees two crores only) and therefore the cheque bearing No.689254 dated 31/03/2019 issued for a sum of Rs.2,00,00,000/- (Rupees two crores only) was not presented by the Defendants' and a modification/amendment deed to the supplementary agreement dated 02/11/2018 was executed on 30/12/2019 and as per the terms of the said agreement a fresh cheque bearing No.718806 for a sum of Rs. 2,00,00,000/- (Rupees two crores only) drawn on Karnataka Bank, Minerva Circle branch was issued by the Plaintiff."



8. The trial Court, after referring to the paragraphs of the plaint and the written statement considered the point that whether the pleadings of the respective parties amount to clear and specific admission as claimed by the plaintiff. It was observed that the plaintiff himself was contending in the plaint that the defendants by using undue influence and unlawful method, under the supplementary agreement a sum of Rs.3,30,000/- was recovered by the defendant No.1 towards recovery of money allegedly spent by the defendants for improvement and furnishing the leased premises. Whether such an amount was received from plaintiff by the defendants under undue influence or the plaintiff (*sic* defendants) were actually liable to pay the said amount to the plaintiff, is a matter to be adjudicated before the Court by conducting trial. It was further observed that the entire reading of the plaint and the written statement establish that the defendant had not specifically admitted the version of the plaintiff which is an essential ingredient to consider the same and pass a decree as required under Order XII Rule 6 CPC.



9. The trial Court referred to the Judgment of the Supreme Court in ***Himani Alloys Vs. Tata Steels Ltd.***¹ as well as the judgment of ***Uttam Singh Duggal Vs. Union of India and Others***² and observed that the provision of Order XII Rule 6 is an enabling provision and the court has to exercise its judicial discretion. Unless the admission is clear, unambiguous and unconditional, the discretion of the Court should not be exercised to deny the valuable right of a defendant(s) to contest the claim. It was noted that the plaintiff himself has alleged in the plaint that he has executed supplementary agreement under undue influence and the recitals in the supplementary agreement dated 02.11.2018 and also modification agreement are all false statements. It was noted that the documents were registered documents and therefore, the onus is on the plaintiff to establish that the recitals in the documents are false statements. The Court therefore, held that under the circumstances there was no ground to partly decree the suit to an extent of Rs.3,30,00,000/-.

¹ (2011) 15 SCC 273

² (2000) 7 SCC 120



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10. It was further observed that a detailed written statement had been filed by the defendants not only denying the averments in the plaint parawise, but extensive submissions had been made under the heading of counter-claim. Paragraph-21 of the written statement was referred to where the submission was that they are not liable to pay a sum of Rs.4,81,80,000/- or any sum to the plaintiff. On the contrary, the plaintiff had to pay a sum of Rs.2,00,00,000/- along with accrued interest. The Court observed that, there exists a triable case and the Court had framed as many as 6 issues based on pleadings. The application therefore was dismissed.

11. The plaint and the written statement have been perused. In my considered opinion, there is no such categorical admission that would entail partly decreeing the suit. The Supreme Court in the case of **Himani Alloys** has observed that a judgment can be given on an admission. However, the admission should be categorical. It should be a conscious and deliberate act of the party making it, showing an intention to be bound by it. Order XII Rule 6 of CPC, being an enabling



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provision, is neither mandatory nor peremptory, but discretionary. The Court has to exercise its judicial discretion keeping in mind that a judgment on admission is a judgment without trial, which permanently denies any remedy to the defendant, by way of an appeal on merits. Therefore, unless the admission is clear, unambiguous and unconditional, the discretion of the Court should not be exercised to deny the valuable right of a defendant to contest the claim.

12. Though the learned counsel for the petitioner has referred to the judgments of the Supreme Court in the case of ***Uttam Singh Dugal***, the Judgment of the Karnataka High Court in ***Assistant Collector of Central Excise (Legal and Appeals) Vs. Fiber Foils (private) Limited and others***³. The judgment of the Delhi High Court in ***Sudesh Madhok Vs. Paam Antibiotics Ltd and Others***⁴ and of the Karnataka High Court in ***K.Venkatamma and Others Vs. Yankamma and Others***⁵, nothing has been demonstrated that the observations made by the Supreme Court in ***Himani Alloys*** can be

³ ILR 2000 KARNATAKA 3635

⁴ MANU/DE/3038/2010

⁵ MANU/KA/9599/2019



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distinguished. There is no jurisdictional error in the order passed by the learned trial Court.

13. For the reason aforesaid, this petition is dismissed.

14. Office is directed to communicate this order to the trial Court concerned within a fortnight.

**Sd/-
(JAYANT BANERJI)
JUDGE**

KGR
List No.: 1 Sl No.: 12