



CNR: KAHC010245012026

NC: 2026:KHC:50786
CMP No. 160 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

BEFORE

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

CIVIL MISC. PETITION NO. 160 OF 2026

BETWEEN:

M/S SMART SERVE ENTERPRISES
A PROPRIETORSHIP CONCERN
HAVING OFFICE AT
NO. 27 MARATENAHALLI VILLAGE
FIRST PHASE KIADB INDUSTRIAL AREA,
KOLAR DISTRICT-563130
REPRESENTED BY ITS PROPRIETOR
K. MANOHARAN.

...PETITIONER

(BY SRI. BHASKAR GOWDA N M., ADVOCATE)

AND:

M/S BREATHE APPLIED SCIENCES PVT LTD
(A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 2013)
HAVING ITS REGISTERED OFFICE AT
M.V. ROYAL HOMES, APARTMENT C-110
SRIRANGAPURA JAKKUR POST
BANGALORE-560054
REP. BY MR. RAKSHITH RAGHAVAN BELUR

...RESPONDENT

(BY SMT. MANASI KUMAR., ADVOCATE)

THIS CMP IS FILED UNDER SECTION 11(5) AND (6) OF
ARBITRATION AND CONCILIATION ACT 1996 PRAYING TO
APPOINT MR. JUDGE VEERANNA G TIGADI (RETD.) OR ANY
OTHER INDEPENDENT ARBITRATOR AS ARBITRATOR TO
ADJUDICATE UPON ALL THE DISPUTES AND/OR DIFFERENCES
BETWEEN THE PARTIES TO THIS PETITION ARISING OUT OF

Digitally Signed by NARENDRA PRASAD
HAREKOPPA THIMMANNA GOWDA





CONTRACT BETWEEN THE PARTIES PURSUANT TO
MEMORANDUM OF UNDERSTANDING DATED 21.02.2022 AT
PARA 14 AS PER ANNEXURE A.

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

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

ORAL ORDER

1. This petition is filed under Section 11(5) and 11(6) of the Arbitration and Conciliation Act, 1996 (for short, "the Act"), seeking appointment of a Sole Arbitrator for adjudication of the disputes that have arisen between the petitioner and the respondent under the Memorandum of Understanding dated 21.02.2022, particularly in terms of Clause 14 thereof, produced at Annexure-A.

2. The petitioner is a proprietorship concern engaged in the business of gas consultancy, distribution of various industrial gases and rental gas equipments, and they have been in the said business for a long period of time. The respondent-Company registered under the Companies Act, approached that petitioner for installation of hydrogen plant, commissioning and marketing of hydrogen in



cylinders across India. They have entered in a Memorandum of Understanding (for short 'MOU') dated 21.02.2022 (Annexure-A). Subsequently, disputes arose between the parties in relation to the said MOU.

3. The MOU contains an arbitration clause, namely, Clause 14, which reads as under:

"ARBITRATION.

14.1. In case of any dispute arising out of or in connection with this MOU, including any question regarding its existence, validity, performance or termination ("Dis- pute"), the Parties shall attempt to amicably settle such Dispute within a period of thirty (30) days after the receipt by the Parties of a written notice from the other Party of the existence of the Dispute by discussions between themselves.

14.2.If the Parties are unable to settle the Dispute, then the Dispute shall be re-ferred to and settled by arbitration in accordance with Arbitration and Conciliation Act, 1996 award, order or judgment pursuant to the arbitration shall be final and binding on the Parties and may be entered and enforced in any court of competent jurisdiction.



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14.3. The language of the arbitration shall be English.

14.4. The decision of the arbitrators shall be final and binding, and the Parties agree and undertake not to take any legal action against such decision or seek its annulment at any court of law. The successful Party may seek to enforce the award before a court having appropriate jurisdiction. Subject to the power of the arbitral tribunal to award costs, each Party shall bear its own cost of arbitration."

4. As the respondent violated with the terms and conditions of the MOU, the petitioner issued a legal notice dated 13.01.2026 (Annexure-B). The respondent replied to the said notice and denied the allegations made by the petitioner. Being dissatisfied with the response and as the MOU provides for resolution of disputes by way of arbitration, the petitioner issued a notice dated 04.03.2026, vide Annexure-D, to the respondent under Section 21 of the Act, invoking the arbitration clause. Despite service of the said notice, the respondent did not



furnish any response. Hence, the petitioner has filed the present petition.

5. Notice issued by this Court to the respondent has been duly served and respondent is represented through counsel.

6. Learned counsel appearing for the respondent has submitted that respondent has no objection to appoint any independent sole arbitrator by this Court.

7. In view of the above, and having regard to the existence of the arbitration clause contained in the MOU, this Court is of the opinion that a Sole Arbitrator is required to be appointed for adjudication of the disputes between the parties. Accordingly, the following:

ORDER

- a) Civil Miscellaneous Petition is **allowed**.
- b) Sri.Mallikarjuna Nagarale, Retired District Judge, is appointed as the Sole Arbitrator in the present case to arbitrate the disputes between



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the parties at the Arbitration and Conciliation Centre (Domestic & International), Bengaluru, as per the Rules governing the said Arbitration Centre.

- c) All the claims and contentions of the parties are kept open.
- d) Registry is directed to communicate this order via E-mail to the Arbitration and Conciliation Centre (Domestic & International), Khanija Bhavan, Bengaluru, and also to the learned Sole Arbitrator.
- e) Registry is directed to return all the original documents produced by any of the parties after obtaining Photostat copies of the same.
- f) Parties are directed to appear before the Director, Arbitration and Conciliation Centre, Bengaluru, on **16.10.2026** at 11:30 a.m.

Digitally Signed by NARENDRA PRASAD
HAREKOPPA THIMMANNA GOWDA

(H.T. NARENDRA PRASAD)
JUDGE

DM
LIST NO.: 1 SL NO.: 33