



CNR: KAHC010252162026

NC: 2026:KHC:36965
WP No. 10882 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO. 10882 OF 2026 (GM-CPC)

BETWEEN:

MRS ZEEBUNDEH KHALEELI
AGED ABOUT 60 YEARS,
WIFE OF MR. WUSOOQ KHALEELI,
NO. 17, PROUDBANK, MILLWAY,
TORONTO, ON M2L 1P3,
CANADA,
E-MAIL ZEEBUNDEH@HOTMAIL.COM
REPRESENTED BY HER POA HOLDER

MR. PRAJWAL SHENAVA,
AGED ABOUT 44 YEARS,
S/O. MR. PRABODH KUMAR SHENAVA,
AT 4TH FLOOR, PRESTIGE CORNICHE,
NO. 62/1, RICHMOND ROAD,
BENGALURU-560 025

Digitally signed
by SUVARNA T

Location:
HIGH COURT
OF
KARNATAKA

(BY SRI.NAVKESH BATRA, ADVOCATE FOR
SRI.KRISHNA J.C., ADVOCATE)

...PETITIONER

AND:

1. M/S RUSTUMJI DEVELOPMENTS
A PROPRIETARY CONCERN,
HAVING ITS OFFICE AT
G-15 AND 16, RICHMOND TOWE
NO. 12 RICHMOND ROAD,
BENGALURU -560 025
REPRESENTED BY ITS PROPRIETOR
MR. N.H. RUSTUMJI



CNR: KAHC010252162026

NC: 2026:KHC:36965
WP No. 10882 of 2026

2. MR. N.H. RUSTUMJI,
AGED ABOUT 82 YEARS,
SON OF LATE MR. HOMI RUSTUMJI,
PROPRIETOR OF
M/S. RUSTOMJI DEVELOPMENTS
A PROPRIETARY CONCERN,
HAVING ITS OFFICE AT
G-15 AND 16, RICHMOND TOWERS,
NO. 12 RICHMOND ROAD,
BENGALURU -560 025
3. MS. ESMATH KHALEELI,
AGED ABOUT 49 YEARS,
DAUGHTER OF MR. AKBAR MIRZA KHALEELI,
RESIDING AT NO. 47,
GALAXIE ROAD, WATERLOOVILLE
P08 AT, HAMPSHIRE, UNITED KINGDOM.
ALSO AT
NO. 26/2-1, SANKEY ROAD CROSS,
ABSHOT LAYOUT,
BENGALURU- 560 001
4. MR. MIRZA ABDUL KARIM NAMAZIE
AGED ABOUT 82 YEARS,
SON OF LATE
MR. MIRZA GHULAM
RESIDING AT 81, GRANGE ROAD,
SINGAPORE - 249 586
E-MAIL NBKN2001@YAHOO.COM
5. MRS. SABEH BAKHACHE,
AGED ABOUT 59 YEARS,
WIFE OF MR. ANTONIE BAKHACHE,
10, SANDHAM, ELSTERNWICK,
MELBOURNE,
VICTORIA -3185
AUSTRALIA, EMAIL ABAKHACHE@USA.NET
ALSO AT
NO. 26/2-1, SANKEY ROAD CROSS,



NC: 2026:KHC:36965
WP No. 10882 of 2026

CNR: KAHC010252162026

ABSHOT LAYOUT,
BENGALURU-560 052

6. MRS. REIHANEH YAVAR DHALAL
ALSO KNOWN AS
MRS. REIHANEH YAVAR DHALA
AGED ABOUT 57 YEARS,
W/O. MR. M.Y. DHALA,
EARLIER RESIDING AT VILLA NOOR,
NO. 4/6, CASURINA DRIVE,
NEELANKARAI,
CHENNAI- 600 041
PRESENTLY AT NO. 21,
KRISHNAMMA ROAD,
NUNGAMBAKKAM,
CHENNAI-600 034

...RESPONDENTS

(BY SRI. JOSHUA HUDSON SAMUEL, ADVOCATE FOR
R1 AND R2
SRI.AJESH KUMAR, ADVOCATE FOR R3 AND R4
R5 AND R6 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA, PRAYING TO DISMISS THE
PROCEEDINGS IN COM. AA NO. 110/2026 PENDING ON THE
FILE OF THE LXXXVI ADDL. CITY CIVIL JUDGE, BENGALURU
COMMERCIAL COURT (CCH-87) (ANNEXURE-A) AS BEING
CORAM NON JUDICE TILL DISPOSAL OF WRIT PETITION.

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

CORAM: HON'BLE SMT. JUSTICE LALITHA KANNEGANTI



CNR: KAHC010252162026

NC: 2026:KHC:36965
WP No. 10882 of 2026

ORAL ORDER

The present writ petition is filed seeking the following prayer:

- i. To dismiss the proceedings in Com.A.A. No.110/2026 pending on the file of the LXXXVI Addl. City Civil Judge, Bengaluru Commercial Court (CCH-87) (Ann-A) as being coram on justice.***
- ii. Award the cost of this Petition; and***
- iii. Grant such further and other relief(s) that this Court may deem fit in the facts and circumstances of the case.***

2. The Respondent No.1 has filed an application under Section 9 before the Commercial Court in arbitration application by filing Com.A.A.No.110/2026. In that application, the court passed an order dated 18.03.2026, observing that, on the basis of the JDA dated 01.11.1994, the respondent herein invoked the arbitration clause and the arbitral tribunal came to be constituted. An award was passed on 16.04.2012, thereby allowing the claims of the respondent herein and rejecting the counter claims of the applicants. The applicants questioned the said award before the Commercial Court by filing Com.AS.47/2012, and the said court, having heard the matter, allowed the petition and set aside the arbitral award. Being



dissatisfied with the said award, the respondent has filed Com.A.P.No.25/2025 and Com.A.P.No.585/2025 before this court. The trial court observed that, since the arbitral award has already been set aside, the JDA dated 01.11.1994 is deemed to be subsisting and the parties to the said agreement shall adhere to the clauses. It is the case of the applicant that they are in actual possession of the disputed property, and on the basis of the advertisement given in the newspapers by the prospective purchasers, the applicants apprehend that the respondents may alienate the applications schedule property. In order to protect the property in dispute from being wasted or alienated, the court has directed the parties to maintain status quo with respect to nature, possession, and title until further orders. In the same order, the court observed that Respondent Nos.1 to 3 have voluntarily appeared through their advocate, and there is no need to issue notice. The court then directed the issuance of notice to Respondent Nos.4 and 5 through speed post, returnable by 08.04.2026.

3. In the order dated 28.03.2026, the trial court observed that the counsel for respondent Nos. 4 and 5 requested time to



CNR: KAHC010252162026

file objections. However, the advocate for respondent Nos. 1 to 3 submitted that he does not wish to file objections to the main petition or to the pending IA's. He requested the court to take up the matter for final disposal and filed a memo citing three decisions. Regarding objections to the main petition, the court has posted the matter to 08.04.2026.

4. After the said order was passed, the petitioner has come before this Court by filing the instant writ petition. When this matter came up before a co-ordinate bench of this Court on 07.04.2026, the Court issued notice to the respondents and granted a stay of the order dated 18.03.2026 passed by the Commercial Court in Com.A.A.No.110/2026 till the next date of hearing. Respondents Nos. 1 and 2, who are the applicants before the Commercial Court, have filed the vacate petition.

5. Learned counsel appearing for the vacate petitioner has drawn the attention of this court to the order in which the petitioner herein, who is respondent Nos. 1 to 3 therein, has refused to file their objections. It is submitted that the relief sought before this court is that Com.A.A. No.110/2026 itself be dismissed. It is submitted that under Article 227, the petitioner



CNR: KAHC010252162026

NC: 2026:KHC:36965
WP No. 10882 of 2026

cannot come before this court seeking the said relief, as it amounts to rejecting the application itself. He relied on an order of the Apex Court in the case of ***K.Valarmathi & Ors Vs. Kumaresan***, and in that case he relied on paragraphs 8, 9, 9,10 and 14 of the Judgment, which read as follows:

8. Power of the High Court under Article 227 is supervisory and is exercised to ensure courts and tribunals under its supervision act within the limits of their jurisdiction conferred by law. This power is to be sparingly exercised in cases where errors are apparent on the face of record, occasioning grave injustice by the court or tribunal assuming jurisdiction which it does not have, failing to exercise jurisdiction which it does have, or exercising its jurisdiction in a perverse manner.

9. Essence of the power under Article 227 being supervisory, it cannot be invoked to usurp the original jurisdiction of the court which it seeks to supervise. Nor can it be invoked to supplant a statutory legal remedy under the Civil Procedure Code, 19085. For example, existence of appellate remedy under Section 96 of the Code operates as a near total bar to exercise of supervisory jurisdiction under Article 227.

10.Civil Procedure Code is a self-contained Code and Order VII Rule 11 therein enumerates the circumstances in which the trial court may reject a plaint. Such rejection amounts to a deemed decree which is appealable before the High Court under Section 96 of the Code. This statutory scheme cannot be upended by invoking supervisory jurisdiction of the High Court under Article 227 to entertain a prayer for rejection of plaint.

14. Procedural law provides the necessary legal infrastructure on which edifice of rule of law is built. Short-circuiting of procedure to reach hasty outcomes is an undesirable propensity of an



CNR: KAHC010252162026

NC: 2026:KHC:36965
WP No. 10882 of 2026

overburdened judiciary. Such impulses rendering procedural safeguards and substantive rights otiose, subvert certainty and consistency in law and need to be discouraged.

Relying on this, it is submitted that this court cannot entertain the application and the remedy available to the petitioner is before the very same court. It is submitted that the petitioner herein has already filed his objection, and the court may be directed to consider the same and pass appropriate orders.

6. Learned counsel appearing for respondents Nos. 4 and 5 before the trial court and for respondents Nos. 3 and 4 before this court submits that the writ petition is not maintainable. The petitioner and respondents Nos. 3 and 4 are sister and uncle. It is further submitted that the present petition before this court is not maintainable.

7. Learned counsel appearing for the petitioner submits that this is a case where the court has to consider the litigation between the parties and the nature of the application filed before the Commercial Court. The court has to decide on the maintainability of the said application before the Commercial Court. It is submitted that while granting an interim order, a



CNR: KAHC010252162026

co-ordinate bench of this Court felt that this is a case to be entertained and has passed an interim order. Further, he relies on the order passed by a co-ordinate bench of this Court in the case of ***Krishna Bhagya Jala Nigam Ltd., & others Vs A.Prabhakara Reddy & others***, arising out of WP.No. 201900/2023, dated 11.09.2023. He relied on paragraph number 12 which reads as follows:

12. ANSWER TO POINT NO.3: Whether in view of Section 8 of the Commercial Courts Act 2015, the present writ petition is maintainable?

12.1. Section 8 of the CCA reads as under:

"8. Bar against revision application or petition against an interlocutory order.—Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of Section 13, shall be raised only in an appeal against the decree of the Commercial Court."

12.2. A perusal of the above indicates that there is a bar on any Court exercising jurisdiction and entertaining any Civil Revision application or petition against any interlocutory order of a Commercial Court including an order on issue of jurisdiction and subject to Section 13 shall be raised against the decree of a Commercial Court. Section 13 of CCA reads as under:

13. Appeals from decrees of Commercial Courts and Commercial Divisions.—20[(1) Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate



CNR: KAHC010252162026

NC: 2026:KHC:36965
WP No. 10882 of 2026

Court within a period of sixty days from the date of judgment or order.

- (1-A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:***

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and Section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).]

- (2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act.***

12.3. Thus from conjoint reading of Section 8 and 13 of CCA, it appears that there is a bar on exercise of writ jurisdiction in a petition challenging an interlocutory order like that passed in the present petition under Section 151 of CPC permitting the petitioner to lead evidence.

12.4. This provision under Section 8 has apparently been incorporated in the CCA to save time and to expedite the trial and proceedings in a commercial suit filed before a Commercial Court. Though there appears to be such a bar, I am of the considered opinion that when ex facie the order of the Commercial Court suffers from legal infirmities requiring it to be quashed and ex facie when the Commercial Court did not have any jurisdiction to permit the plaintiff to lead his further evidence, if the same were permitted to go on, then it would only delay the proceedings inasmuch as the evidence of the plaintiff would have to be led, documents marked, he has to be cross examined which would take considerable time, which would in turn delay the proceedings before the Commercial Court.



CNR: KAHC010252162026

- 12.5. *The object of Section 8 to reduce the judicial interference being with an intention to expedite the proceedings before the Commercial Court in a Commercial suit, the very object would be defeated if this Court would not intercede in the matter and set aside the order of the Commercial Court which has an effect of delaying the entire proceedings. Apart therefrom it also would result in multiple evidence being brought on record on the very same point which would apart from creating confusion, further delay the consideration of the matter.***
- 12.6. *In that view of the matter, being of the considered opinion that the order passed by the trial Court would, in fact, militate against the object of Section 8 of CCA, I am of the considered opinion that in the peculiar facts of this case despite the bar under Section 8 of CCA, this Court is required to intercede and set right the wrong which has been committed.***
- 12.7. *The decision in Surya Dev Rai's case (supra) is a decision rendered prior to the coming into force of CCA and not with reference to the CCA. What has been held by the Hon'ble Apex Court in the above case is that the supervisory jurisdiction under Article 227 of the Constitution of India is required to be exercised in rare cases only upon being satisfied that there is an error which is manifest and apparent on the face of the proceedings or utter disregard of the provision of law or grave injustice or failure of justice is occasioned thereby. I am of the considered opinion that all these three tests have been fulfilled in the present case inasmuch as the impugned order is in disregard of the provision of law as detailed in answer to point Nos.1 and 2 by virtue of which grave injustice would be caused to the defendant and this error is manifest and exfacie apparent on the face of records.***
- 12.8. *The decision in State of Gujarat's case (supra) is one under CCA and refers to Section 8 thereof. The said decision in turn refers to the decision in Surya Dev Rai's case on the very same grounds as are detailed out therein. The Hon'ble Apex Court however entertained the petition, set-aside the order passed by the Commercial Court and in that case allowed certain documents to be marked in***



CNR: KAHC010252162026

evidence. Thus having considered all the aspects, the Hon'ble Apex Court was of the opinion that the circumstances demanded the intervention of the Hon'ble Apex Court in the matter despite the provision of Section 8 and this decision therefore would not enure to the benefit of the plaintiff.

12.9. *In Imtiyaz Sheikh's case (supra), the Hon'ble Delhi High Court while dealing with the proceedings under the Arbitration and Conciliation Act came to a conclusion that a writ petition cannot be maintained, but, however further held that the discretion in the facts and circumstances if such petition is to be entertained is left to the Judge dealing with the matter.*

12.10. *Thus in none of the decisions, there is categorical prohibition on the High Court, i.e., this court entertaining a writ petition challenging an interlocutory order as sought to be contended by Sri.Sachin Mahajan, learned counsel appearing for the plaintiff-respondent.*

12.11. *Being of the opinion that there is manifest error resulting in grave injustice caused to the petitioner-defendant, I am of the considered opinion that this Court would have to exercise its supervisory power under Article 227 of the Constitution of India despite Section 8 of the CCA, which infact is not a complete bar.*

Relying on this paragraph, it is submitted that this Court has got ample powers under Article 227 to decide the application before this Court.

8. Having heard the learned counsels on either side and perused the material on record, the respondent herein has filed an application before the Commercial Court, which has granted an interim order. The petitioner has appeared before the court.



According to him, the Commercial Court has no jurisdiction to decide this matter. He has every right and liberty to file an application. It appears that he has already filed a memo stating that the court has no jurisdiction to entertain this petition. The petitioner is at liberty to file an appropriate application to decide the jurisdiction and maintainability of the said application before the court, and on such application the court will consider the same. This court is not inclined to exercise the jurisdiction under Article 227. The award in favour of the petitioner before this court has already been set aside in an appeal, and he is in a further appeal before this court. In these circumstances, the Commercial Court will be able to decide all the disputes that are raised between the parties.

9. In that view of the matter, this court is passing the following:

ORDER

- i. The writ petition is ***disposed of*** giving liberty to the petitioner to file the appropriate application before the trial Court.



**NC: 2026:KHC:36965
WP No. 10882 of 2026**

CNR: KAHC010252162026

- ii. After filing such application, the trial Court after giving reasonable opportunity to the other side to file their objection, shall consider the application as expeditiously as possible and pass orders in accordance with law.
- iii. Pending I.As., in this petition shall stand closed.

**SD/-
(LALITHA KANNEGANTI)
JUDGE**

TS
List No.: 1 Sl No.: 58