



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

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

WRIT PETITION NO. 12434 OF 2026 (GM-CPC)

BETWEEN:

1. M/S AEROWELD INDUSTRIES,
NO.B-9, HAL ANCILLARY
INDUSTRIAL ESTATE,
BENGALURU - 560 037.
(BY ITS SUCCESSORS IN OFFICE,
NIRMALA DAS AND VASUNDRA DAS).
 2. NIRMALA DAS,
W/O. LATE N. KISHEN DAS,
AGED ABOUT 78 YEARS,
 3. VASUNDHARA DAS,
D/O. LATE N. KISHEN DAS,
AGED ABOUT 48 YEARS,
- ALL ARE RESIDING AT NO.38,
11TH MAIN ROAD, MALLESHWARAM,
BENGALURU - 560 003.

...PETITIONERS

(BY SRI. SRIDHAR CHAKRAVARTHI M V., ADVOCATE)

AND:

1. ASHOK DWARAKANATH,
AGED ABOUT 63 YEARS,
S/O. LATE B.K. DWARKANATH,

Digitally signed by
DHANALAKSHMI
MURTHY

Location: HIGH
COURT OF
KARNATAKA



2. CHAYA AJAY KUMAR,
AGED ABOUT 55 YEARS,
D/O LATE B.K. DWARKANATH,
(REPRESENTED BY P.A HOLDER
SANTHOSH DWARKANATH).
3. SANTHOSH DWARKANATH,
AGED ABOUT 50 YEARS,
S/O. LATE B.K. DWARKANATH,
ALL ARE RESIDING AT NO.23,
UMA VILAS, 1ST CROSS,
MALLESWARAM,
BENGALURU - 560 003.

...RESPONDENTS

(BY SMT.CHETHANA MANJUNATH, ADVOCATE FOR
SRI.B.S.MANJUNATH, ADVOCATE FOR C/R1 TO R3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS IN FDP NO.79/2023 ON THE PENDING FILE OF THE XIX ADDL. CITY CIVIL AND SESSIONS JUDGE AT BENGALURU CITY (CCH-18), AND ISSUE A WRIT OF CERTIORARI BY QUASHING THE IMPUGNED ORDER DATED 17-03-2026 PASSED ON IA-1/2024 AS BEING ILLEGAL, WITHOUT JURISDICTION, AND CONTRARY TO ARBITRATION LAW AND THE INDIAN PARTNERSHIP ACT VIDE ANNEXURE - A AND ETC.,

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

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



ORAL ORDER

1. In this writ petition, the petitioners have called in question the order dated 17.03.2026 passed by the XIX Addl. City Civil & Sessions Judge in FDP No.79/2023 on I.A.No.1/2024 filed by the respondents herein.

2. For the sake of convenience, the parties are referred to as per their ranking before the Trial Court in Original Suit.

3. The petitioners/Respondents herein had filed a suit in O.S.No.4223/2018 on the file of XIX Addl. City Civil & Sessions Judge, Bengaluru City, for dissolution of Partnership Firm, which came to be decreed by judgment and decree dated 10.03.2023. Being aggrieved by the same, the petitioners herein has filed RFA No.1113/2023 before this Court. This Court by the order dated 22.02.2024 had admitted the appeal, granted an interim order, drawing up of final decree is stayed, till the next date of hearing. Thereafter, interim order granted has



been extended until further orders. In the meantime, the respondent herein has filed FDP proceedings in FDP No.79/2023 and also filed I.A.No.1/2024 under Order XXVI Rule 13 seeking appointment of Civil Engineer as Court Commissioner to make division of the suit schedule property, which came to be allowed. Being aggrieved by the same, petitioners are before this Court.

4. Learned counsel appearing for the petitioners has contended that the judgment and decree passed by the trial Court in O.S.No.4223/2018 is itself without jurisdiction. The respondents have no *locus standi* to file any suit. When decree itself is in nullity and same is challenged before this Court by filing Regular First Appeal. The FDP Court has no jurisdiction to proceed in the final decree proceedings.

5. Learned counsel appearing for caveator/respondents contended that in Regular First Appeal, the Court has granted interim order and drawing



of final decree is stayed. Therefore, the FDP Court has proceeded to appoint a Commissioner to ascertain the same and no final decree has been drawn. This is also relied upon the judgment of this Court in W.P.No.105631/2023 disposed on 12.03.2024.

6. Heard the learned counsel appearing for the parties.

7. It is not in dispute that the respondents herein have filed a suit in O.S.No.4223/2018 seeking dissolution of partnership firm. It is also not in dispute that the trial Court has decreed the suit by judgment and decree dated 10.03.2023. Thereafter, respondents herein have filed FDP 79/2023. In the meantime, being aggrieved by the judgment and decree, the petitioners herein have filed RFA No.1113/2023. This Court vide order dated 22.02.2024 has admitted that appeal, drawing up of final decree is stayed, till next date of hearing.



8. Learned counsel appearing for the petitioners submitted that subsequently, this Court in RFA has extended that interim order until further orders. What is the interim order granted in RFA is only drawing of Final Decree is stayed and judgment and decree passed by the trial Court is not stayed and FDP proceedings in FDP No.79/2023 is also not stayed. Therefore, the FDP Court can appoint a Commissioner but cannot drop the final decree. Till that stage, FDP proceedings can be continued. Even this Court in similar circumstances, has held in W.P.No.105631/2023 at para No.5 as under:

"5. From above, it is not in dispute that interim order granted by this Court in RS No.100357/2019 on 12.06.2019 was staying drawing up of final decree only and therefore Final Decree Court would be justified in proceeding up to that stage. As such, appointment of Court Commissioner cannot be assailed on ground that second appeal was pending. Hence, objection of counsel for respondents would be justified. Therefore, petition is devoid of merit and is dismissed."



9. In view of the above, there is no error or illegality in the order passed in FDP No.79/2023 by the FDP Court. Therefore, the writ petition is devoid of merit and accordingly, is ***dismissed***.

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

PSJ
List No.: 1 Sl No.: 43