



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE JAYANT BANERJI

WRIT PETITION NO.17371 OF 2026 (GM-CPC)

BETWEEN:

EXERGIC EDUCATION PVT. LTD,
A COMPANY REGISTERED UNDER THE
COMPANIES ACT, 2013
HAVING ITS REGISTERED OFFICE AT:
HD-521, WEWORK PRESTIGE ATLANTA
SOFTWARE INDUSTRY, NO.10/12
80 FEET MAIN ROAD, KORAMANGALA
1A BLOCK, BANGALORE, KARNATAKA- 560 034
THROUGH ITS DIRECTOR
MR. CHANDRESH KUMAR MAHAJAN

...PETITIONER

(BY SRI DECLYN GERARD GOMES, ADVOCATE)

AND:

NISHANT KUMAR
MAJOR, S/O HARISH PRASAD
R/O: VILL- DAMODARPUR
DAMODARPUR, MUZAFFARPUR
PATAHI, BIHAR- 843 113

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF MANDAMUS DIRECTING THE HON'BLE XIX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-18) TO ADJUDICATE UPON I.A.NO.5/2025 UNDER SECTION 15 OF THE COMMERCIAL COURT ACT 2015 IN O.S.NO.3092/2024 (ANNEXURE-D).

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI



ORAL ORDER

Even though the matter is actually under Article 227 of the Constitution of India, the instant petition is filed seeking the following reliefs:

- a. Writ of Mandamus directing the Hon'ble XIX Additional City Civil and Sessions Judge, Bengaluru (CCH - 18) to adjudicate upon I.A.No.5/2025 under Section 15 of the Commercial Courts Act, 2015 in O.S.No.3092/2024; (Annexure-D).
- b. Pass any such order(s) as this Hon'ble Court deems fit in these facts and circumstances, in the interest of justice and equity.

2. The contention is that a suit for permanent injunction was filed by the plaintiff/petitioner against the sole respondent seeking a decree of permanent injunction restraining the defendant from selling and distributing or pirating any course material that belongs to the plaintiff's company. A decree of mandatory injunction was also sought for a direction to the defendant to delete social media post messages about selling or distributing any course material that belong to the plaintiff's company from his social media accounts or by creating any fake accounts.

3. It is stated that an application under Section 15 of the Commercial Courts Act was filed by the plaintiff seeking transfer of the suit to the Commercial Court inasmuch as it was



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a commercial dispute covered under Section 2(1)(c) (xvii) of the Commercial Courts Act, 2015 which provides for intellectual property rights. It is stated that a jurisdictional issue is sought to be raised before the trial Court which ought to be decided by the trial Court at the outset itself. However in its order of 09.12.2025, the trial Court has observed that I.A.No.5, which is the application moved by the petitioner, would be considered at the relevant point of time and hence the same was kept in abeyance.

4. On perusal of the order sheet and as also fairly submitted by learned Counsel for the petitioner, the defendant is yet to be served. Though it is stated by learned Counsel that repeated attempts of service on the defendant has been unsuccessful, and that an application filed under Order V Rule 20 of CPC seeking substituted service too has not been appropriately ordered by the Court, in my opinion, the presence of the defendant would be necessary to decide the aforesaid application. The presence is necessary because (i) there is no clear averment in the plaint regarding existence of an intellectual property right in favour of the plaintiff, (ii) certain allegations have been made and certain reliefs have been



sought in the plaint which require to be appropriately answered by the defendant; and, (iii) a proper decision on jurisdictional aspect can be taken by the trial Court on the aforesaid I.A.No.5.

5. Under the circumstances, a direction for deciding the application at this stage would not be appropriate which fact as been also noted by the trial Court in its order of 09.12.2025. It is for the plaintiff to supply the correct address and/or take such other and further steps contemplated under Order V Rule 5 of CPC for effecting service on the defendant.

6. Therefore this Court direct that as and when the defendant appears, I.A.No.5 be considered by the Court after giving due opportunity to the defendant to reply to the said application. Subject to the aforesaid observation, this petition is disposed of.

7. A copy of this order shall be communicated to the learned trial Court concerned within a fortnight by the Registry.

Sd/-
(JAYANT BANERJI)
JUDGE