



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

MISCELLANEOUS FIRST APPEAL NO. 6353 OF 2025 (AA)

BETWEEN:

M/S SANDEEP CONSTRUCTIONS
A PARTNERSHIP FIRM REGISTERED
UNDER THE PROVISIONS OF
INDIAN PARTNERSHIP ACT,
REPRESENTED BY ITS PARTNER
MRS. G VIJAYALAKSHMI
AGED ABOUT 46 YEARS,
HAVING OFFICE AT NO.40,
ARVIND RESIDENCY, 7TH MAIN,
1ST CROSS, BEHIND ESI QUARTERS,
INDIRANAGAR
BENGALURU - 560038

...APPELLANT

(BY MR. ANAGHA NARASIMHA C N, ADVOCATE FOR
SRI. AJIT P B, ADVOCATE)

AND:

1. SRI BHUSHAN PRAMOD PAPINWAR
S/O PRAMOD N PAPINWAR,
AGED ABOUT 39 YEARS
2. SMT. KALYANI BHUSHAN PAPINWAR
W/O BHUSHAN PRAMOD N PAPINWAR

BOTH ARE RESIDING AT PAPINWAR GALLI,
GUJARI CHOWK,

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH
COURT OF
KARNATAKA



PUSAD DIST YUVATMAL,
MAHARASHTRA - 445204

ALSO AT RESIDING AT NO. 404,
SANDEEP SQUARE,
OPPOSITE EMBASSY TECH VILLAGE,
KADUBEESANHALLI,
BENGALURU - 560103

...RESPONDENTS
(BY SRI. MOHD USMAN SHAIKH, ADVOCATE FOR R1 & R2)

THIS MFA IS FILED U/S.37(1)(a) OF THE ARBITRATION AND CONCILIATION ACT, 1996, AGAINST THE ORDER DT.23.07.2025 PASSED ON IA.NO. 2 OS.NO. 25073/2024 ON THE FILE OF THE IV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CCH-21 COURT OF THE 74TH ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, MAYOHAL UNIT, BENGALURU, CCH-75, REJECTING THE IA.NO. II FILED BY THE DEFENDANT N/S 8 OF THE ARBITRATION AND CONCILIATION ACT.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE C.M. POONACHA)

1. The present appeal is filed by the defendant calling in question the order dated 23.07.2025 [**impugned order**] passed on IA.No.2 in OS No.25073/2024 by the 74TH Additional City Civil and Sessions Judge, Mayohall Unit, Bangalore (CCH 75), [**trial Court**],



whereunder the application [IA.No.2] filed by the defendant under Section 8 of the Arbitration and Conciliation Act, 1996 [**A&C Act**] was rejected.

2. The relevant facts in a nutshell leading to the present appeal are that the respondents [plaintiffs] entered into an agreement of sale of an undivided share dated 15.03.2020 [agreement of sale] with the appellant [defendant] whereunder they agreed to purchase 557 sq.ft., of undivided share, right, title and interest in a larger extent of property (residentially converted land in Sy.Nos.129/4, 128/19, 128/20 situated at Boganahalli village, Varthur Hobli, Bengaluru East Taluk).

3. The relevant clauses of the agreement of sale are as under:

1. The VENDOR hereby offers to sell the Schedule II Property to and in favour of the PURCHASER/S herein for a sale price and consideration of Rs.20,00,000/- (Rupees Twenty Lakhs Only) (excluding the cost of stamp duty, registration fees and other incidental charges) with an undertaking that the Vendor shall get caused the construction of a Residential Flat more particularly described in Schedule III along with the right to the common amenities mentioned therein, as per the terms of the Construction Agreement entered into between the Vendor and the Purchaser/s



on the even date and subject to the rights and restriction mentioned in Schedule III to VI of Construction Agreement.

2. The PURCHASER/S have this paid a sum of Rs.1,00,000/- (Rupees One Lakh Only) by way of CHEQUE - 000008 Dated on 05-02-2020 drawn on HDFC Bank for the receipt of which the VENDOR acknowledges herewith before the attesting witnesses. The VENDOR hereby undertakes to execute a Deed of Absolute Sale or conveyance for the Schedule II Property in favour of the PURCHASER/S, subject to the PURCHASER/S complying with all the terms and conditions imposed upon them under this Agreement to Sell and the Construction Agreement.

(emphasis supplied)

3.1 Schedules II and III of the said agreement of sale are as under:

SCHEDULE II

(Part of the Schedule I property agreed to be sold to the nominee/s of the Vendor) 557 sq.feet undivided right, title, interest and ownership in the immovable property mentioned in Schedule I above.

SCHEDULE III

Flat bearing No.804 in the Eighth Floor, admeasuring 1697 Sq.feet Super Built Up Area, and Carpet Area of 70% on SBA, containing Three Bed Rooms, together with One Covered Car Parking Space including proportionate share in common areas such as Passages, Lobbies, Staircase and



lift, to be constructed on Schedule I Property known as 'SANDEEP SQUARE"

4. The plaintiffs also entered into a construction agreement dated 15.03.2020 [construction agreement], with the defendant, whereunder the defendant agreed to put up construction of a three bedroom apartment (bearing No.804) in the 8th floor of the building 'Sandeep Square' measuring 1697 sq.ft., of super built up area.

5. The relevant clause of the said construction agreement is as under:

1. As desired by the Second Party, the First Party do hereby assure and undertake to complete the construction of the schedule II Flat/Property for and on behalf of the Second Party, as per the dimensions, specifications and other details as contained in the Schedule II to this agreement, for an agreed sale consideration of Rs.76,00,000/- (Rupees Seventy Six Lakhs Only) payable by the Second Party to the First Party. The said sale consideration includes the cost payable towards One Covered Car Parking Space, the deposits payable to the BESCO (Electricity charges), BWSSB (Water Charges), Amenities charges, miscellaneous charges such as Generator for common area, motors pump room, lifts, Service tax, VAT etc., and excluding the cost



payable towards Stamp duty, Registration Fees and other legal fees/charges, Katha transfer fee and incidental charges.

(emphasis supplied)

5.1 Schedule II in the said construction agreement is as under:

"SCHEDULE II"

Flat bearing No.804 in the Eighth Floor, admeasuring 1697 Sq.feet Super Built Up Area, with 70% Carpet Area of SBA, containing Three Bed Rooms, together with One Covered Car Parking Space, including proportionate share in common areas such as Passages, Lobbies, lift and staircase in the Apartment building known as 'SANDEEP SQUARE' to be constructed over the Schedule I Property, with other specifications contained hereunder:

6. The respondents filed a suit (OS No.25073/2024), *inter alia*, contending that consequent to the execution of the agreement of sale and construction agreement, the defendant, having completed construction of the building, including apartment bearing No.804, commenced executing sale deeds in favour of other purchasers and handing over possession of the apartments. However, when the plaintiffs approached them, they failed to



execute the sale deeds. Hence, the plaintiffs filed the suit seeking for the following reliefs:

"WHEREFORE, the plaintiffs humbly pray that this Hon'ble Court be pleased to grant the following relief/s

a) To pass a judgement and decree for specific performance of the Agreement of Sale dated 15.03.2020 and further direct the defendant to execute the Registered Sale Deed in respect of the suit schedule "B" and "C" property in favour of the Plaintiffs by receiving the balance sale consideration;

b) And on the failure of the Defendant to execute the No Registered Sale Deed in favour of the Plaintiffs, then this Hon'ble Court be pleased to execute the Registered Sale Deed in favour of the Plaintiffs through the agency of court and to get registered the same before the jurisdictional Sub-Registrar's office.

c) And grant such other relief/s as this Hon'ble Court deems fit to grant in the facts and circumstances of the case and award cost of the suit to meets the ends of justice."

7. The defendant entered appearance in the said suit and contested the same. The defendant also filed an application (IA No.2) under Section 8 of the A&C Act to direct the plaintiffs to



"approach the Arbitral Tribunal as per clause 12 of the sale agreement dated 15.03.2020". The plaintiffs contested the said application. The trial Court vide the impugned order dismissed the said application. Being aggrieved, the present appeal is filed.

8. The trial Court dismissed the application primarily on the ground that "the arbitration clause will not remain in existence when the contract is terminated by either of the party, hence, the contract is not in existence as on the date of notice issued to the defendant".

9. Clearly, the said finding of the trial Court is *ex facie* erroneous and is unsustainable. It is a settled proposition of law that an arbitration clause is a separate agreement, independent of the main agreement, which can be invoked for resolution of the disputes under the main agreement. Clause 12 of the agreement of sale contains an arbitration clause, which reads as under:

12. The parties agree that in case of any dispute arising in respect of this agreement, the matter shall be referred to arbitration of an arbitrator, in consonance with the provisions of the Arbitration and Conciliation Act, 1996, as may be amended from time to time. The Choice of the arbitrator shall be by mutual consent of all the parties to this



agreement. The decision of the arbitrator so appointed shall be binding on the parties hereto. The seat of arbitration shall be at Bangalore; The proceedings shall be held at Bangalore and conducted in the English language. The Courts in Bangalore shall alone have jurisdiction with regard to this Agreement.

10. It is sought to be contended on behalf of the plaintiffs that only the agreement of sale contains the arbitration clause and not the construction agreement. Hence, the suit having been filed for execution of the sale deed for conveyance of the residential apartment together with undivided share, right, title and interest, the suit was maintainable before the trial Court.

11. In this context, it is relevant to note that in the plaint, the plaintiffs have categorically averred that the defendant has finished the entire construction work in the building and the same is ready to be conveyed. It is pertinent to note that the agreement of sale contemplates conveyance of the undivided share by the defendant (Schedule II in the agreement of sale) with an undertaking that the defendant shall cause construction of the residential apartments, which is described in Schedule III to the agreement of sale. It is not in dispute that the construction of the



apartment as mentioned in Schedule III of the agreement of sale has been completed.

12. Admittedly, clause 12 of the agreement of sale contains the arbitration clause. The parties are *ad idem* that construction has been completed in accordance with the construction agreement. Under the agreement of sale, the defendant had agreed to convey the undivided right, title, interest and ownership in the property (as enumerated in schedule II to the said agreement). The defendant had undertaken to construct the residential flat as described in schedule III to the said agreement. Under the terms of the said agreement of sale, the defendant was required to execute the sale deed for conveyance of the undivided property (schedule II) in favor of the plaintiffs subject to the plaintiffs complying with the terms and conditions imposed on them under the agreement of sale and construction agreement i.e., the payment of sale consideration. The construction having been completed in accordance with the construction agreement, the conveyance is required to be done in accordance with the agreement of sale. The substance of the plaintiff's dispute is covered by the agreement of sale. In any event, the agreements



are also interlinked, and the plaintiffs' claims are covered by the arbitration clause.

13. In the aforementioned factual context, the trial court erred in dismissing IA No. 2.

14. In view of the aforementioned discussion, the above appeal is allowed and the impugned order is set aside. The application (IA.No.2) is allowed. The parties are referred to arbitration for adjudication of their disputes.

15. Pending IAs., if any, stand disposed of.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE

ND/ List No.: 1 SI No.: 8