



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF SEPTEMBER, 2026

R

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT PETITION NO. 26431 OF 2026 (GM-RES)

BETWEEN:

STATE OF KARNATAKA,
BY ITS COMMISSIONER FOR PUBLIC INSTRUCTIONS,
PRIMARY AND SECONDARY EDUCATION,
GOVERNMENT OF KARNATAKA,
K.R. CIRCLE, BENGALURU-560 001.

...PETITIONER

(BY SRI. ADITYA VIKRAM BHAT., AGA)

AND:

1. M/S. EVERONN EDUCATION LTD.,
A COMPANY INCORPORATED UNDER COMPANIES
ACT, 1956, (IN PROVISIONAL LIQUIDATION),
REPRESENTED BY ITS OFFICIAL LIQUIDATOR,
HIGH COURT OF MADRAS, CORPORATE BHAVAN,
2ND FLOOR, NO.29, RAJAJI SALAI,
NORTH BEACH ROAD, CHENNAI-600 001.
2. KARNATAKA ELECTRONICS
DEVELOPMENT CORPORATION LIMITED,
GOVERNMENT OF KARNATAKA,
ENTERPRISE, SECOND FLOOR,
TTMC A BLOCK, BMTCL, SHANTINAGAR,
BENGALURU-560 027.
REPRESENTED BY ITS MANAGING DIRECTOR

Digitally
signed by
SUMATHY
KANNAN
Location:
High Court
of Karnataka



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

3. M/S. SIDDHARTH INFOTECH PVT. LTD.,
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF THE COMPANIES ACT, 1956,
HAVING REGISTERED OFFICE AT NO.303,
SHIVAPRAKRUTHI APARTMENT,
BENGALURU - 560 092,
REPRESENTED BY ITS DIRECTOR.

...RESPONDENTS

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF
CERTIORARI OR ANY OTHER APPROPRIATE WRIT/ORDER/
DIRECTION, TO QUASH THE COMMON ORDER DATED
24/07/2026, PASSED BY THE SOLE ARBITRATOR, IN
A.C.NO.298/2022 PRODUCED HERewith AS ANNEXURE-A.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL ORDER

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present petition has been filed against an Order
dated 24.07.2026, passed by the learned Sole Arbitrator,
Hon'ble Mr. Justice N. Kumar, former Judge of the High
Court of Karnataka, in A.C.No.298/2022 (CMP No.340



CNR: KAHC010585872026

**NC: 2026:KHC:48219-DB
WP No. 26431 of 2026**

/2022) [hereinafter referred to as the "Impugned Order"].
By the Impugned Order, two interlocutory applications, both filed by Respondent No.3 under Section 151 of the Code of Civil Procedure, 1908 [hereinafter referred to as the "CPC"], seeking recall of an earlier Order dated 08.11.2024 and to reopen the Respondent's evidence so as to permit Respondent No.3 to cross-examine RW.1 and RW.2, were allowed.

2. The parties are referred to as Petitioner/Respondent No.1, Respondent No.1/Claimant, Respondent No.2 and Respondent No.3, respectively, consistent with their array before the learned Arbitral Tribunal in A.C. No.298/2022.

3. The brief facts giving rise to the present petition are that Respondent No.1/Claimant instituted arbitral proceedings being A.C. No.298/2022 against the Petitioner /Respondent No.1, Respondent No.2 and Respondent No.3, in respect of disputes arising out of the Information and Communication Technologies (ICT) Phase III Project (hereinafter referred to as the 'Contract'). The Respondent



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

No.1/Claimant filed its Statement of Claim on 09.09.2022, raising various claims arising out of the alleged illegal termination of the Contract and breach thereof, and sought a sum of approximately Rs.732.82 crores, together with interest and costs. The Petitioner/Respondent No.1 filed its Statement of Defence on 04.03.2023, which was subsequently amended from time to time, while Respondent No.2 filed its Statement of Defence on 15.03.2023. Respondent No.3 did not file any pleadings, or counter-claim before the learned Arbitral Tribunal.

4. Upon completion of pleadings, the learned Arbitral Tribunal framed issues on 11.05.2023 and an additional issue on 26.05.2023. Thereafter, Respondent No.1/Claimant commenced its evidence. On 30.07.2024, Sri B.G. Kumarswamy, Managing Director of Respondent No.3, was examined as CW3 at the instance of Respondent No.1/Claimant.

5. By its order dated 08.11.2024, the Arbitral Tribunal held that since the representative of Respondent No.3 had



already been examined as CW3 on behalf of Respondent No.1/Claimant, Respondent No.3 had no right to cross-examine RW.1. Thereafter, Respondent No.2 led its evidence through RW.2, and upon completion of the cross-examination of RW.2 on 06.12.2024, a similar finding was recorded by the learned Arbitral Tribunal with regard to the right of Respondent No.3 to cross-examine RW.2. The evidence before the learned Arbitral Tribunal was thereafter treated as concluded on that day and the matter was fixed for final arguments.

6. Subsequently, an application was filed by the Respondent No.1/Claimant for permission to produce an additional document and to examine another witness. Thereafter, Petitioner/Respondent No.1 filed an application on 24.03.2025 to amend its Statement of Objections.

7. In addition, an application was filed under Section 16 of the Arbitration and Conciliation Act, 1996 [hereinafter referred to as the "A & C Act"] by the Petitioner/Respondent No.1 to terminate the proceedings, as the proceedings were



**NC: 2026:KHC:48219-DB
WP No. 26431 of 2026**

CNR: KAHC010585872026

barred by law. In fact, as on 26.07.2025, as many as five applications were pending hearing before the Arbitral Tribunal.

8. While these applications were pending, on 27.04.2026, Respondent No.3 filed two applications both under Section 151 of the CPC, before the learned Arbitral Tribunal, one seeking recall of the Order dated 08.11.2024 and the other seeking reopening of the evidence so as to permit Respondent No.3 to cross-examine RW.1 and RW.2. It was stated in the application that Respondent No.3 supports Respondent No.1/Claimant and Respondent Nos.1 and 2 have put up a case adverse to that of Respondent No.1/Claimant. However, it is further stated that Respondent No.3 is a separate legal entity and since RW.1 and RW.2 (witnesses of Petitioner/Respondent No.1) have made statements which would adversely affect the interest of Respondent No.3, Respondent No.3 be given the right to cross-examine RW.1 and RW.2. The relevant extract of the application is set out below:



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

"2. I state that the Claimant has filed the instant claim seeking reliefs as are mentioned in the claims statement. **Respondent No.3 supports the claim of the Claimant. I further state that Respondent No.1 and 2 have, through their statement of defence, put up a case adverse to that of the Claimant and Respondent No.3.** This being the case, I was called upon as a witness by the Claimant as CW3. I have been examined in chief and have been cross-examined in my individual capacity.

XXX

XXX

XXX

4. I further state that **I, Mr. Kumar Swamy B. G., have been earlier examined in my individual capacity as CW3. The Respondent No. 3 Company is a separate legal entity,** who has to cross-examine the Respondent Witness Nos. 1 and 2 to deal with/challenge/rebut the averments made in their Statement of Defence and their evidence made against the Respondent No.3 Company. **These statements prejudice the case of Respondent No. 3 Company. The Respondent No.3 Company wishes to cross-examine Respondent Witness Nos. 1 and 2. Respondent No. 3 Company wants to highlight the true veracity of these witnesses since they have not put forward the true facts.**

5. I am advised to state that **since there is a clash of interest between Respondent Nos.1 and 2 and Respondent No.3 and since RW 1 and 2 have made statements which are injurious to Respondent No.3, Respondent No. 3 has a right to cross examine RW 1 and 2.** I further state that it would be unfair and unjust not to allow Respondent No.3 to cross examine RW 1 and 2 since their case is adverse to that of Respondent No.3 and since they have given evidence against Respondent No.3. **I am advised to state that the principles of natural justice would require that Respondent No.3 is at least given an opportunity to cross examine RW 1 and 2. The same will only assist this Hon'ble Tribunal in bringing out the true facts necessary for the complete adjudication of the instant matter."**

[Emphasis Supplied]



CNR: KAHC010585872026

9. The Petitioner/Respondent No.1 opposed these applications and filed its detailed objections on 10.07.2026.

10. By the Impugned Order dated 24.07.2026, the learned Arbitral Tribunal allowed both applications filed by Respondent No.3. The learned Arbitral Tribunal recalled the Order dated 08.11.2024, to the extent that it had held that Respondent No.3 had no right to cross-examine RW.1, reopened the evidence of the Petitioner/Respondent No.1 and Respondent No.2, and permitted Respondent No.3 to cross-examine RW.1 and RW.2. RW.1 and RW.2 were accordingly directed to be recalled for the said purpose.

11. It is also relevant to note here that Respondent No.3 had instituted separate arbitral proceedings in A.C. No.204/2021 in respect of its claims arising out of the same project. An Award dated 18.05.2022 was passed therein, by which it was directed that payment be made to Respondent No.3/ M/s.Siddharth Infotech Private Limited in the sum of Rs.178,98,38,525/- under various heads. This Award was upheld by the LXXXII Additional City Civil & Sessions Judge,



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

Bengaluru (CCH.83) [hereinafter referred to as 'the Commercial Court'] in Com.A.P.No.79/2022 by the Judgment dated 31.07.2023. Subsequently, the said Judgment and Award were set-aside by this Court in COMAP No.403/2023 by the Judgment dated 18.09.2025. The Respondent No.3 has thereafter preferred SLP(Civil) No.1841/2026 against the order dated 18.09.2025, which is stated to be pending before the Supreme Court.

12. The mandate of the learned Arbitral Tribunal was initially extended by consent up to 26.11.2024. Subsequently, Respondent No.1/Claimant instituted Com.A.A.No.475/2025, pursuant to which the Commercial Court, by an order dated 05.03.2026, extended the mandate of the learned Arbitral Tribunal upto 31.05.2026.

13. Aggrieved by the Impugned Order, the Petitioner /Respondent No.1 has approached this Court under Articles 226 and 227 of the Constitution of India, 1950 [hereinafter referred to as "the Constitution"], principally contending that the learned Arbitral Tribunal could not have recalled its



CNR: KAHC010585872026

**NC: 2026:KHC:48219-DB
WP No. 26431 of 2026**

earlier Order dated 08.11.2024 and reopened the evidence after the lapse of considerable time, and that the exercise of power by the learned Arbitral Tribunal in passing the Impugned Order warrants interference in exercise of the supervisory jurisdiction of this Court.

14. The learned counsel for the Petitioner/Respondent No.1 has submitted that the Order dated 08.11.2024, had already determined the right of Respondent No.3 to cross-examine RW.1. It was contended that the power of review is a creature of statute and that the A & C Act does not confer such power upon an Arbitral Tribunal. The learned counsel submitted that the course adopted by the learned Arbitral Tribunal, though expressed as a power of recall under Section 151 read with Order XVIII, Rule 17 of the CPC, was in substance a review of its earlier decision.

15. Learned counsel for the Petitioner/Respondent No.1 further submitted that the right of a co-respondent to cross-examine the witness of another co-respondent is not an absolute right and depends upon the existence of a conflict



CNR: KAHC010585872026

**NC: 2026:KHC:48219-DB
WP No. 26431 of 2026**

of interest. According to the Petitioner/Respondent No.1, the learned Arbitral Tribunal erred in finding such conflict in the present case without identifying the material on record which established an adversarial position of Respondent No.3.

16. Learned counsel for the Petitioner/Respondent No.1 further submitted that the learned Arbitral Tribunal also failed to appreciate the legal effect of the examination of CW.3 on behalf of Respondent No.1/Claimant. According to the Petitioner/Respondent No.1, the circumstances emerging from the evidence of CW.3 demonstrate that the interests and positions of Respondent No.1/Claimant and Respondent No.3 were closely aligned, and consequently the premise of a conflict warranting reopening of the evidence was unsustainable.

17. It was lastly contended that the discretion to reopen evidence could not have been exercised in favour of Respondent No.3 after such a prolonged delay, particularly when the evidentiary stage had already concluded and the



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

proceedings had advanced to final arguments. Learned counsel submitted that no sufficient explanation had been furnished for the delay and that reopening the evidence at such a stage would cause prejudice to the Petitioner/Respondent No.1.

18. We have examined the record produced before us. Given the order that this Court proposes to pass, this Court does not deem it apposite to issue notice in the matter.

19. At the outset, it is necessary to set out the settled legal position that exists *qua* judicial interference in pending arbitral proceedings. Ordinarily, Courts are required to refrain from interfering in matters which are governed by the Arbitration Act. In ***Bhaven Construction Vs. Executive Engineer, Sardar Sarovar Narmada Nigam Limited and Anr.***¹ the Supreme Court while considering the scope of interference by the High Court under Articles 226/227 of the Constitution with the arbitral process, has held that the Arbitration Act is a self-contained code and,

¹ (2022) 1 SCC 75



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

having regard to Section 5 thereof, judicial intervention in matters governed by the Arbitration Act must remain within its statutory framework. It was further held that, although the constitutional jurisdiction under Article 227 remains available, the High Court ought to be extremely circumspect in exercising the same, and interference should be restricted to cases where the Impugned Order is patently lacking in inherent jurisdiction. The relevant extract of

Bhaven Construction case is set out below:

"12. We need to note that the Arbitration Act is a code in itself. This phrase is not merely perfunctory, but has definite legal consequences. One such consequence is spelled out under Section 5 of the Arbitration Act, which reads as under

"5. Extent of judicial intervention.— Notwithstanding anything contained in any other law for the time being in force, in matters governed by this Part, no judicial authority shall intervene except where so provided in this Part."

(Emphasis Supplied)

The non obstante clause is provided to uphold the intention of the legislature as provided in the Preamble to adopt UNCITRAL Model Law and Rules, to reduce excessive judicial interference which is not contemplated under the Arbitration Act.

13. The Arbitration Act itself gives various procedures and forums to challenge the appointment of an arbitrator. The framework clearly portrays an intention to address most of the issues within the ambit of the Act itself, without there



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

being scope for any extra statutory mechanism to provide just and fair solutions.

XXX

XXX

XXX

17. Thereafter, Respondent 1 chose **to impugn the order passed by the arbitrator under Section 16(2) of the Arbitration Act through a petition under Articles 226/227 of the Indian Constitution.** In the usual course, the Arbitration Act provides for a mechanism of challenge under Section 34. The opening phrase of Section 34 reads as

"34. Application for setting aside arbitral award.—(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3)".

(Emphasis Supplied)

The use of term "only" as occurring under the provision serves two purposes of making the enactment a complete code and lay down the procedure.

XXX

XXX

XXX

18. In any case, the hierarchy in our legal framework, mandates that a legislative enactment cannot curtail a constitutional right. In *Nivedita Sharma v. COAI* [*Nivedita Sharma v. COAI*, (2011) 14 SCC 337: (2012) 4 SCC (Civ) 947], this Court referred to several judgments and held: (SCC p. 343, para 11)

"11. We have considered the respective arguments/submissions. There cannot be any dispute that the power of the High Courts to issue directions, orders or writs including writs in the nature of habeas corpus, certiorari, mandamus, quo warranto and prohibition under Article 226 of the Constitution is a basic feature of the Constitution and cannot be curtailed by parliamentary legislation — *L. Chandra Kumar v. Union of India* [*L. Chandra Kumar v. Union of India*, (1997) 3 SCC 261: 1997 SCC (L&S) 577]. **However, it is one thing to say that in exercise of the power vested in it under Article 226 of the Constitution, the High Court can entertain a writ**



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

petition against any order passed by or action taken by the State and/or its agency/ instrumentality or any public authority or order passed by a quasi-judicial body/authority, and it is an altogether different thing to say that each and every petition filed under Article 226 of the Constitution must be entertained by the High Court as a matter of course ignoring the fact that the aggrieved person has an effective alternative remedy. Rather, it is settled law that when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation."

[Emphasis Supplied]

It is therefore, prudent for a Judge to not exercise discretion to allow judicial interference beyond the procedure established under the enactment. This power needs to be exercised in exceptional rarity, wherein one party is left remediless under the statute or a clear "bad faith" shown by one of the parties. This high standard set by this Court is in terms of the legislative intention to make the arbitration fair and efficient.

19. In this context we may observe **Deep Industries Ltd. v. ONGC [Deep Industries Ltd. v. ONGC, (2020) 15 SCC 706], wherein interplay of Section 5 of the Arbitration Act and Article 227 of the Constitution was analysed as under:** (SCC p. 714, paras 16-17)

"16. Most significant of all is the non obstante clause contained in Section 5 which states that notwithstanding anything contained in any other law, in matters that arise under Part I of the Arbitration Act, no judicial authority shall intervene except where so provided in this Part. Section 37 grants a constricted right of first appeal against certain judgments and orders and no others. Further, the statutory mandate also provides for one bite at the cherry, and interdicts a second appeal being filed [see Section 37(2) of the Act].



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

17. This being the case, there is no doubt whatsoever that if petitions were to be filed under Articles 226/227 of the Constitution against orders passed in appeals under Section 37, the entire arbitral process would be derailed and would not come to fruition for many years. At the same time, we cannot forget that Article 227 is a constitutional provision which remains untouched by the non obstante clause of Section 5 of the Act. In these circumstances, what is important to note is that though petitions can be filed under Article 227 against judgments allowing or dismissing first appeals under Section 37 of the Act, yet the High Court would be extremely circumspect in interfering with the same, taking into account the statutory policy as adumbrated by us hereinabove so that interference is restricted to orders that are passed which are patently lacking in inherent jurisdiction."

[Emphasis Supplied]

20. A similar view was taken by the Supreme Court, in ***Manash Kamal Bezboruah v. Bokahola Tea Co. (P) Ltd.***² while considering the scope of the High Court's supervisory jurisdiction under Article 227 of the Constitution over orders passed by an Arbitral Tribunal during the pendency of arbitral proceedings. It was reiterated that judicial intervention at the interlocutory stage is to be kept to a minimum and that, except in cases of patent lack of

² 2026 SCC OnLine SC 1330



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

inherent jurisdiction, an order of the Arbitral Tribunal ought not to be interfered with under Article 227. The Supreme Court further held that the availability of an alternative statutory remedy does not, by itself, render a writ petition non-maintainable, but the question whether such petition ought to be entertained is distinct and depends upon the discretionary exercise of writ jurisdiction. The relevant extract is set out below:

"26. The Constitution Bench in SBP & Co. v. Patel Engineering Ltd., (2005) 8 SCC 618: (2005) 128 Comp Cas 465, stating that the Act mandates minimal judicial intervention, has explicitly disapproved the approach of High Courts correcting orders of an Arbitral Tribunal under Article 226 or 227 of the Constitution of India during the pendency of arbitral proceedings. The relevant portion of the said judgment is extracted hereinbelow:

45. It is seen that some High Courts have proceeded on the basis that any order passed by an Arbitral Tribunal during arbitration, would be capable of being challenged under Article 226 or 227 of the Constitution. We see no warrant for such an approach. Section 37 makes certain orders of the Arbitral Tribunal appealable. Under Section 34, the aggrieved party has an avenue for ventilating its grievances against the award including any in-between orders that might have been passed by the Arbitral Tribunal acting under Section 16 of the Act. The party aggrieved by any order of the Arbitral Tribunal, unless has a right of appeal under Section 37 of the Act, has to wait until the award is passed by the Tribunal. This appears to be the scheme of the Act. The Arbitral Tribunal is, after all, a creature of a contract between the parties, the arbitration



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

agreement, even though, if the occasion arises, the Chief Justice may constitute it based on the contract between the parties. But that would not alter the status of the Arbitral Tribunal. It will still be a forum chosen by the parties by agreement. **We, therefore, disapprove of the stand adopted by some of the High Courts that any order passed by the Arbitral Tribunal is capable of being corrected by the High Court under Article 226 or 227 of the Constitution. Such an intervention by the High Courts is not permissible.**

46. **The object of minimising judicial intervention while the matter is in the process of being arbitrated upon, will certainly be defeated if the High Court could be approached under Article 227 or under Article 226 of the Constitution against every order made by the Arbitral Tribunal. Therefore, it is necessary to indicate that once the arbitration has commenced in the Arbitral Tribunal, parties have to wait until the award is pronounced unless, of course, a right of appeal is available to them under Section 37 of the Act even at an earlier stage.**

27. **Furthermore, this Court in the case of Deep Industries (supra), has held that the High Court under article 227 can only deal with orders of the Tribunal wherein there is patent lack of inherent jurisdiction.** The relevant portion of the said judgment is extracted hereinbelow:

"17. This being the case, there is no doubt whatsoever that if petitions were to be filed under Articles 226/227 of the Constitution against orders passed in appeals under Section 37, the entire arbitral process would be derailed and would not come to fruition for many years. At the same time, we cannot forget that Article 227 is a constitutional provision which remains untouched by the non obstante clause of Section 5 of the Act. In these circumstances, what is important to note is that though petitions can be filed under Article 227 against judgments allowing or dismissing first appeals under Section 37 of the Act, yet the High Court would be extremely circumspect in interfering with the same, taking into account the



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

statutory policy as adumbrated by us hereinabove so that interference is restricted to orders that are passed which are patently lacking in inherent jurisdiction."

XXX

XXX

XXX

30. Therefore, this is a settled position of law that the High Court must exercise extreme circumspection while invoking its supervisory jurisdiction under Article 227 of the Constitution of India in matters challenging an Arbitral Tribunal's rejection of an application under Section 16 of the Act. In the absence of such a manifest jurisdictional defect, judicial interference at the interlocutory stage would be unwarranted and contrary to the legislative policy of minimal court intervention in arbitral proceedings. Orders passed by the Tribunal on an application under Section 16 of the Act are ordinarily amenable to challenge only under Section 34 of the Act upon the conclusion of the arbitral proceedings and the passing of the final award. It is always safe for the High Courts that, before entertaining revision petitions under Article 227 of the Constitution of India against the Orders passed by the Arbitral Tribunal, while exercising powers under Section 16 of the Act, it should record a prima facie finding regarding the patent lack of inherent jurisdiction and that too after providing an opportunity of hearing to the rival party/parties."

[Emphasis Supplied]

21. From an examination of the facts that have been reproduced in the foregoing paragraphs, it can be seen that the deposition was given by RW.3 (as CW.3) on 30.07.2024 and it was only thereafter, that the evidence of Respondent Nos.1 and 2 through their witnesses RW.1 and RW.2 was recorded by the Arbitral Tribunal on 13.09.2024



CNR: KAHC010585872026

**NC: 2026:KHC:48219-DB
WP No. 26431 of 2026**

and 08.11.2024 respectively. Thus, concededly, at that time when the evidence of CW.3 was given on behalf of the claimant, the other Respondents i.e. Respondent Nos.1 and 2 were yet to give their evidence.

22. The record also reflects that the matter although at the stage of final arguments as was urged by the learned counsel for the Petitioner/Respondent No.1, but there were five applications filed by the parties which were pending adjudication on the date the Impugned Order was passed. Thus, the pleadings had not yet been concluded by the parties and the contention that the Impugned Order would delay the proceedings is misplaced.

23. The power of an Arbitrator to decide its procedure during the conduct of the redressal proceedings is set out in Section 19 of the A & C Act. Sub-section (2) of Section 19 of the A & C Act provides that the parties are free to agree on a procedure to be followed for conducting the proceedings. Sub-section 3 of Section 19 of the A & C Act provides that where there is no agreement as is referred in



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

sub-section (2) of Section 19, the Arbitral Tribunal may conduct its proceedings in the manner it deems appropriate.

Section 19 of the A & C Act is reproduced below:

"19. Determination of rules of procedure.

(1) The arbitral tribunal shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) or the Indian Evidence Act, 1872 (1 of 1872).

(2) Subject to this Part, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting its proceedings.

(3) Failing any agreement referred to in sub-section (2), the arbitral tribunal may, subject to this Part, conduct the proceedings in the manner it considers appropriate.

(4) The power of the arbitral tribunal under sub-section (3) includes the power to determine the admissibility, relevance, materiality and weight of any evidence."

[Emphasis Supplied]

24. The Supreme Court in ***Serosoft Solutions Pvt. Ltd. Vs. Dexter Capital Advisors Pvt. Ltd.***³ has while deciding a question of whether the High Court had correctly exercised jurisdiction under Article 227 of the Constitution in granting the claimant one opportunity to cross-examine a witness despite the Arbitral Tribunal rejecting such a

³ 2025 SCC OnLine SC 22



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

prayer, held that the Arbitral Tribunal had examined the matter and after giving a full opportunity to the parties had passed the impugned judgment declining the right to cross-examine. It was thus held that the High Court should have restrained itself from interfering. In addition, certain guidelines for exercising jurisdiction were also set out therein. It was further held that excessive judicial interference is not encouraged and that unless the order is completely perverse, it would not be prudent to interfere, in the following terms:

"12. The first principle that governs 'conduct of arbitral proceedings' under Chapter V of the Act is the obligation of equal treatment of parties. Under Section 18 of the Act, it is the statutory duty of the Arbitral Tribunal to ensure that the parties are treated with equality and each party is given full opportunity to present its case. At the same time, there is yet another statutory obligation, which is imposed on the judicial authorities. That is the statutory incorporation of judicial restraint in interfering with matters governed under Part I of the Act relating to arbitration agreement, composition and jurisdiction of Arbitral Tribunal, coupled with the conduct of the proceedings and making, challenge and enforcement of the award. This objection of restraint on the judicial authority is overriding and notwithstanding anything contained in any other law for the time being in force.

13. Having looked into the matter, we are of the opinion that the Arbitral Tribunal seems to have given full



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

opportunity to all parties, which is amply evident from the record. On the other hand, the unrestrained cross-examination of RW-1 by the respondent/claimant has already exceeded 12 hours, but the respondent/claimant does not seem to be satisfied with it

14. In any event of the matter when the Arbitral Tribunal by its order dated 09.10.2024 held - 'that far and no further', to the respondent/claimant's endeavour **to cross-examine RW-1, the High Court should have restrained itself from interfering.** In order to justify its interference and extension of time, the High Court has referred to and relied on a judgment of the same Court [See: Kelvin Air Conditioning and Ventilation System Pvt. Ltd. v. Triumph Reality Pvt. Ltd., 2024 SCC OnLine Del 7137]. **Certain conditions for exercising jurisdiction under Articles 226/227 are mentioned in the judgment.** Conditions (v) and (vi) of the said judgment could have provided sufficient guidance for the High Court to consider whether interference is warranted or not. The relevant portion of the said order is as under: —

"(v) Interference is permissible only if the order is completely perverse i.e. that the perversity must stare in the face.

(vi) High Courts ought to discourage litigation which necessarily interfere with the arbitral process.

(vii) Excessive judicial interference in the arbitral process is not encouraged.

(viii) It is prudent not to exercise jurisdiction under Articles 226/227.

(ix) The power should be exercised in 'exceptional rarity' or if there is 'bad faith' which is shown.

(x) Efficiency of the arbitral process ought not to be allowed to diminish and hence



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

interdicting the arbitral process should be completely avoided."

[Emphasis Supplied]

24.1 It was further held in **Serosoft Solutions** case that the perversity that is complained of by a party must be such that it must stare in the face and it is imperative that the Court sets out what such perversity is. The relevant extract is below:

"15. It is evident from the above that even as per the quote hereinabove interference under Article 226/227 is 'permissible only if the order is completely perverse i.e. that the perversity must stare in the face.' Condition (vi) to (x) underscores the reason why High Courts ought not to interfere with orders passed by the Arbitral Tribunals for more than one reason. 16. We looked into the other parts to see if the High Court has in fact found any perversity in the decision of the Tribunal. We found none. **The High Court has not bothered to indicate under what circumstances the order passed by the Tribunal is perverse.** All that the High Court has said is that cross-examination is one of the most valuable and effective means of discovering the truth. This is a normative statement, and nobody disputes the said principle. **The only enquiry required was whether there is denial of opportunity for an effective cross-examination of the witness. There is absolutely no discretion about this aspect of the matter, except to say that in the facts and circumstances of the case and as an exceptional circumstance as well, the request of the respondent/claimant is excessive."**

[Emphasis Supplied]



CNR: KAHC010585872026

**NC: 2026:KHC:48219-DB
WP No. 26431 of 2026**

25. From an examination of the record of the Arbitral Tribunal, it can be seen that the Respondent No.3 had averred in its application that although the Respondent No.3 supports the Respondent No.1/Claimant, Respondent No.2 and Petitioner/Respondent No.1 have made statements/depositions, which are prejudicial to the interest of the Respondent No.3. It is not disputed that the depositions of Respondent Nos.1 and 2 were made subsequently and the right of Respondent No.3 to cross-examine Respondent Nos.1 and 2 was closed on the day they gave their evidence. Since the Respondent No.3 had not filed any pleadings, its right to cross-examine did exist, and it was within the ambit of the Arbitral Tribunal to permit this. In any event, at that time, the Petitioner/Respondent No.1's application for amendment of its Statement of Objection was pending. Hence, it cannot be said that the Impugned Order would delay the arbitration.



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

26. The Arbitral Tribunal thus, after examining all these aspects and the evidence of the parties and based on the settled legal position of equality to the parties, granted the Respondent No.3 an opportunity to cross-examine RW.1 and RW.2. This Court finds no perversity in the order passed by the Arbitral Tribunal which would require interference by the Court.

27. The learned counsel for the Petitioner/Respondent No.1 has also averred that the mandate of the Arbitral Tribunal had come to an end, however the record clearly reflects that the Arbitral proceedings had not been concluded. In addition, the learned counsel has not placed any document on record to reflect that an extension had not been granted by the competent Court.

28. Given the settled legal position and the circumstances which have been narrated above, this Court finds no ground to entertain the present petition. The petition is accordingly ***dismissed.***



CNR: KAHC010585872026

NC: 2026:KHC:48219-DB
WP No. 26431 of 2026

29. It is however clarified that the order being passed today has been passed without prejudice to the rights and contentions of the parties, which are left open to be agitated before the appropriate forum. All pending applications stand closed.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

YN/KS
List No.: 1 Sl. No.: 6