



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

COMMERCIAL APPEAL NO. 481 OF 2025

BETWEEN:

1. THE COMMISSIONER

BANGALORE DEVELOPMENT AUTHORITY,

KUMARAPARK WEST,

BENGALURU 560020

...APPELLANT

(BY SRI. AJAY KUMAR M., ADVOCATE)

AND:

1. M/S DEVARAJ URS TRUCK TERMINAL LTD.,

(A GOVERNMENT OF KARNATAKA ENTERPRISE)

HAVING ITS REGISTERED OFFICE AT

3RD FLOOR, TTMC B BLOCK,

Digitally
signed by
SRIDEVI S
Location:
High Court
of Karnataka



K H ROAD, SHANTHINAGARA,

BENGALURU 560027

REPRESENTED BY ITS ESTATE MANAGER,

S SHIVANNA S/O SHIVALINGE GOWDA

...RESPONDENT

(BY SRI.K.G.KAMATH, ADVOCATE)

THIS COMAP / COMMERCIAL APPEAL UNDER SECTION 13
(1-A) OF THE COMMERCIAL COURTS ACT, PRAYING TO SET
ASIDE THE ORDER DT.11.07.2025 PASSED BY THE LEARNED
LXXXV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE,
BENGALURU, (COMMERCIAL COURT) IN COM MIS NO.30/2025
AND FURTHER BE PLEASED TO ALLOW COM MISC.NO.30/2025
AND RESTORE COM.O.S.NO.1688/2024 THEREIN.

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. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present appeal impugning an order dated 11.07.2025 passed by the learned Commercial Court in Com.Misc.No.30/2025.
2. The appellant had filed the said application Com.Misc.No.30/2025 in Com.O.S.No.1688/2024, under Order IX Rule 13 of the Code of Civil Procedure, *inter alia*, praying that the ex-parte judgment be set aside.
3. The aforementioned suit, Com.O.S.No.1688/2024, was filed by the respondent on 10.12.2024. The learned Commercial Court had issued a summons on 13.12.2024, which was returnable on 10.01.2025. Admittedly, the summons had been received. However, the appellant had not entered appearance. Thus, the learned Commercial Court proceeded with the suit ex parte. The suit was thereafter directed to be listed on 21.01.2025 for the recording of the plaintiff's evidence. The said evidence was recorded, and submissions were heard. The matter was listed on 03.02.2025 for judgment and the judgment and decree were passed on the said date.



4. The appellant filed an application under Order IX Rule 13 for the recall of the ex parte order. The appellant had urged several grounds, including that the trial Court ought to have given the appellant an opportunity to file a written statement to contest the case. It is claimed that no opportunity had been given. The appellant also claimed that the learned Commercial Court was in a hurry, and the same had resulted in justice being denied to the appellant as it could not contest the case on the merits.

5. However, the application does not set out any reason why the appellant had not entered appearance, despite receiving summons. It merely states that the file relating to the case was misplaced and that it took time to trace it. Undeniably, the appellant could have sought additional time to file a written statement on the said ground, but that cannot be a ground not to appear in the proceedings despite receipt of the summons. As noted above, the appellant did not provide any reasons for not appearing before the court.



6. The witness examined by the appellant in support of its application, also did not further the case of the appellant. The witness was cross-examined, and he stated that he was not aware when the summons was served or when the case files were received.

7. The appellant sought to fault the learned Commercial Court for disposing of the case in an expeditious manner. The grounds urged in the application under Order IX Rule 13 of CPC are set out below:

"3. The Trial Court was in a hurry to dispose of the case resulting in refusal of justice to the petitioner to contest the case on merits.

4. It is to be seen that, the suit is filed on 10.12.2024, evidence was recorded on 2.1.2025 and Judgment was pronounced on 3.2.025, and it took one month and twenty two days for deciding the case which was too early. On this ground alone, the impugned Judgement and decree deserves to be set-aside."

8. We are unable to accept that the learned Commercial Court can be faulted for disposing of the commercial suit in an expeditious manner.



9 We find no grounds to set aside the order of the learned Commercial Court declining to allow the appellant's application under Order IX Rule 13 of CPC.

10. The appeal is accordingly dismissed.

11. We, however, clarify that this order will not preclude the appellant from filing a substantive appeal against the judgment and decree.

12. The pending interlocutory applications also stand disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**