



CNR: KAHC010600222025

NC: 2026:KHC:48534-DB
COMAP No. 484 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

COMMERCIAL APPEALS NO. 484 OF 2025

BETWEEN:

1. M/S HIGH RISE BUILDERS AND DEVELOPERS
(A PARTNERSHIP FIRM REGISTERED UNDER THE PARTNERSHIP ACT)
REPRESENTED BY ITS PARTNER
SRI VENUGOPAL M.J.
NO.57, GROUND FLOOR,
ADITYA CIRCLE, DATTAGALLI 3RD STAGE,
CHAMARJA MOHALLA,
MYSURU-570018

...APPELLANT

(BY SRI. NAGENDRA NAIK R., ADVOCATE)

AND:

1. SRI. S K SATHISH
S/O KITTAPPA GOWDA,
AGED ABOUT 45 YEARS,
R/AT 1ST CROSS,
VIJAYANAGARA EXTENSION,
HOSAMANE CIRCLE,
CHIKKAMAGALURU-577101
2. SRI DINESH H.R.
S/O RAJ
AGED ABOUT 46 YEARS,
R/AT 122/1, GOPAL CIRCLE,

Digitally
signed by
VASANTHA
KUMAR B K
Location:
HIGH
COURT OF
KARNATAKA



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KUSHALNAGARA HOBLI,
SOMAVARAPETE TALUK,
KODAGU DISTRICT 571232

...RESPONDENTS

(BY SRI. LEELA P DEVADIGA, ADVOCATE FOR R1;
SRI. RAMAKRISHNA HEGDE, ADVOCATE FOR R2)

THIS COMAP / COMMERCIAL APPEAL IS FILED UNDER SECTION 13 1A OF THE COMMERCIAL COURTS ACT, 2015 PRAYING TO SET ASIDE THE ORDER DATED 07.08.2025 PASSED BY THE COMMERCIAL COURT AND II ADDITIONAL DISTRICT AND SESSION JUDGE, MYSURU IN COM.EX. NO. 131/2023 AS PER ANNEXURE A AND ALLOW THE APPLICATION FILED BY THE APPELLANT / OBJECTOR UNDER ORDER XXI RULE 97 R/W RULE 101 OF CPC 1908, BEFORE THE HONBLE COMMERCIAL COURT AND II ADDITIONAL DISTRICT AND SESSIONS JUDGE AT MYSORE IN COM. EX. NO. 131/2023 AS PER ANNEXURE N.

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

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

The present commercial appeal under Section 13(1A) of the Commercial Courts Act, 2015 R/W Section 96 and Order 41 Rule 1 of the Code of Civil Procedure 1908, has been filed impugning the judgment and order dated 07.08.2025 passed by the Commercial Court and II Additional District and Sessions Judge at Mysuru in Commercial Execution No.131/2023.



CNR: KAHC010600222025

2. The execution petition has been filed by the decree holder seeking execution of the compromise decree passed in Commercial O.S.No.44/2021 on the file of the Principal District and Sessions Judge, Chikkamagaluru. The decree holder and the judgment debtor had agreed for a sum of Rs.1,90,00,000/- to be paid by the judgment debtor to the decree holder. Out of the said amount only Rs.20,00,000/- was paid and remaining amount of Rs.1,70,00,000/- was to be paid in installments on or before 18.05.2022 by the judgment debtor. It was also provided in the compromise consent decree that if the said amount of Rs.1,70,00,000/- was not paid on or before 18.05.2022, the decree holder would be at liberty to recover the entire amount of Rs.2,36,33,593/-.

3. It appears that the judgment debtor failed to pay Rs.1,70,00,000/- in installments on or before 18.05.2022 and therefore, the judgment debtor had filed Execution Case No.9/2022 before the Principal District and Sessions Judge, Chikkamagaluru. Against the said consent decree, the decree holder and judgment debtor went to the Supreme Court in SLP



CNR: KAHC010600222025

No.36104/2025. On 26.05.2026, the Supreme Court has passed the following order:-

"I.A.No.156822/2026:

- 1. Interlocutory Application has been filed by the respondent to withdraw a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) which has been deposited by the petitioner before this Court.*
- 2. There being no objection to the said application, the said Interlocutory Application is allowed.*
- 3. The Registry is directed to release a sum of Rs. 50,00,000/- (Rupees Fifty Lakhs Only) to respondent No.1 herein as expeditiously as possible.*
- 4. Learned counsel for the petitioner submitted that within a period of two weeks from today another Rs.30,00,000/- (Rupees Thirty Lakhs only) would be deposited before this Court and therefore the respondents may not take precipitative action against the petitioner herein.*
- 5. Subject to the deposit of Rs.30,00,000/- (Rupees Thirty Lakhs only) within a period of two weeks from today before this Court, no precipitative action shall be taken by the respondents against the petitioner herein.*
- 6. On such deposit being made, respondent No.1 is permitted to withdraw the said amount."*



CNR: KAHC010600222025

It appears that the judgment debtor is making sincere effort to satisfy the decree.

4. The appellant/applicant has filed an application under Order XXI Rule 97 in the Execution Petition. The said application has filed with a prayer to remove the attachment on the property bearing Survey No.7/14 measuring 4 acres and Sites formed in Survey No. 7/15 and 7/16 measuring 1 acre 2 guntas and 5 acres 7 guntas situated at Guddenahalli Village, Haranahalli Hobli, Periyapatna Taluk, Mysuru District. The objector/appellant is resisting the execution on the ground that he had entered into a joint development agreement dated 27.04.2022 with the judgment debtor and in pursuance to the agreement he has made payment of Rs.2.83 Crores and has obtained 62.5% of interest over these properties. As the attachment order is in respect of the entire properties, his rights are affected. The execution Court vide impugned order has rejected the said application. The Execution Court has rightly held that the application was not maintainable under Order XXI Rule 97. But he could have filed an application under



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Order XXI Rule 58 and against an order passed under Order XXI Rule 58, no appeal lies.

5. We are therefore, of the view that this appeal is wholly misconceived. It is not maintainable. Therefore, we ***dismiss*** this appeal on this ground alone. The matter is pending before the Supreme Court. If the appellant is of the view that he should intervene in the pending SLP before the Supreme Court, he may do so.

6. Pending I.A(s) if any, stand disposed of.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(H.SHANTHI BHUSHAN)
JUDGE**

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CT:SN
List No.: 2 SI No.: 5