IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

WRIT PETITION NO.54435 OF 2014 (GM - CPC)
C/W
WRIT PETITION NO.55977 OF 2017 (GM-CPC)

IN W.P.NO.54435/2014

BETWEEN:

1. SHREE MAHABALESHWARA AUTO INDUSTRIES PVT. LTD.,
A REGD. COMPANY REPRESENTED
BY MANAGING DIRECTOR,
AT "PRANAV" NO.18,
1ST CROSS, SADASHIVANAGAR,
BANGALORE – 560 080.

2. SUDHIR SIRSI,
S/O LATE NARAHARI RAO,
AGED ABOUT 61 YEARS,
ENGINEER,
"ARUNACHALA", 16TH A CROSS,
JAYANAGAR,
BANGALORE – 560 011.

…PETITIONERS

(BY SRI.V.R.DATAR, ADVOCATE)

AND:

1. S.SHRIDHAR,
S/O LATE SHAMANNA,
AGED ABOUT 60 YEARS,
R/O RBI COLONY,
JAYANAGAR,
BANGALORE – 560 011.

2. REGISTRAR GENERAL,
HIGH COURT OF KARNATAKA,
BANGALORE – 560 001.

3. PRL. CITY CIVIL JUDGE,
BANGALORE CITY,
REPRESENTED BY
REGISTRAR AT
CITY COURT COMPLEX,
BANGALORE – 560 002.

...RESPONDENTS

(BY SRI.S.KRISHNA SWAMY, ADVOCATE FOR R1;
R2 AND R3 ARE DELETED VIDE ORDER DATED 19.03.2015)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS OF O.S. NO. 870/2003 PENDING ON THE FILE OF CITY CIVIL COURT; ISSUE DIRECTION TO PASS AN ORDER FOR EARLY DISPOSAL OF THE SUIT IN O.S. 870/2003 ON THE FILE OF CCH-31 VIDE ANNEXURE - A; ISSUE A WRIT OF MANDAMUS TO THE REGISTRAR OF THIS HON'BLE COURT, R-2 TO HOLD AN INQUIRY ON THE COMPLAINT VIDE ANNEXURE - H PENDING IN THIS COURT AND TO TAKE ACTION AGAINST THE GUILTY, THE FILE BE PLACED BEFORE HON'BLE C.J.;

IN W.P.NO.55977/2017

BETWEEN:

1. SHREE MAHABALESHWARA AUTO
INDUSTRIES PVT. LTD.,
65, BOMMASANDRA INDUSTRIAL AREA,
II PHASE,
BANGALORE – 562 158.
REPRESENTED BY ITS
MANAGING DIRECTOR,
SRI.SUDHIR SIRSI.

2. SRI.SUDHIR SIRSI,
S/O LATE NARAHARI RAO SIRSI,
AGED ABOUT 65 YEARS,
MANAGING DIRECTOR,
SREE MAHABALESHWAR
AUTO INDUSTRIES PVT. LTD.,
65, BOMMASANDRA INDUSTRIAL AREA,

II PHASE,
BANGALORE – 562 158.

…PETITIONERS

(BY SRI.V.R.DATAR, ADVOCATE)

AND:

SRI.S.SHRIDHAR,
S/O T. SHAMANNA,
AGE: 75 YEARS,
R/O NO.13, RBI COLONY,
3RD BLOCK, JAYANAGAR EAST,
BANGALORE – 560 069.

…RESPONDENT

(BY SRI.S.KRISHNA SWAMY, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS IN O.S. NO. 870/2003 ON THE FILE OF THE COURT OF CITY CIVIL JUDGE, BENGALURU AND ON PERUSAL OF THE SAME BE PLEASED TO QUASH AND SET ASIDE THE ORDERS PASSED ON I.A. FOR FRAMING OF ADDITIONAL/SUGGESTED ISSUE UNDER ORDER XIV OF CPC VIDE ANNEXURE – H, I.A.FOR DISMISSAL ON THE GROUND OF ADMISSIONS UNDER ORDER XII RULE 6 OF CPC AT ANNEXURE – F BY A COMMON ORDER IN O.A.870/2003 BY THE COURT OF THE CITY CIVIL JUDGE, BENGALURU DATED 07.10.2017 VIDE ANNEXURE – K AND DISMISSAL OF I.A.FOR AMENDMENT FILED UNDER ORDER VI RULE 17 R/W ORDER VII RULE 7 CPC BY THE ORDER DATED 28.11.2017 IN O.S.870/2003 VIDE ANNEXURE – M BY THE LEARNED TRIAL COURT BY IT'S ORDER DATED 28.11.2017 VIDE ANNEXURE – Q AND ETC.,

THESE WRIT PETITIONS COMING ON FOR ORDERS THIS DAY THROUGH VIDEO CONFERENCE, THE COURT MADE THE FOLLOWING:

ORDER

In both the writ petitions, petitioners being the defendants in a money suit in O.S.No.870/2003 are assailing the following three orders entered by the learned trial Judge:

(i) order rejecting their application under Order XIV Rule 5 for framing of additional issues filed on 06.07.2012;

(ii) order rejecting their application under Order VII Rule 11d filed on 01.09.2010; &

(iii) order rejecting their application under Order VI Rule 17 filed on **06.07.2017.**

2. After service of notice, the respondent-plaintiff having entered appearance through his counsel has filed Objection Statement, resisting the writ petition and making submission in justification of the impugned orders & the reasons on which they are structured.

3. Having heard the learned counsel for the parties and having perused the petition papers, this Court declines to grant indulgence in the matter, inasmuch as petitioners have a deferred alternate remedy in the sense that they can make the impugned orders one of the grounds for assailing the judgment & decree, if & when they suffer adverse to their

interest, as provided under Section 105 r/w Rule XLIII Rule 1A of the amended Code.

Therefore, these writ petitions are disposed off, with that liberty, all contentions of the parties having been kept open.

Learned Judge of the Court below is requested to try & dispose off this old suit before the onset of Summer Vacation – 2021, rejecting any request for adjournment made by any of the parties.

No costs.

Sd/-
JUDGE

DS