HC-KAR
NC: 2026:KHC:61619
CMP No. 398 of 2026
CNR: KAHC010501972026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

CIVIL MISC. PETITION NO. 398 OF 2026

BETWEEN:

M/S SANWISH PHARMA LLP
A LIMITED LIABILITY PARTNERSHIP
INCORPORATED UNDER THE LLP ACT 2008
HAVING ITS REGISTERED OFFICE AT
NO. 3021, 1ST FLOOR, 4TH PHASE
VHBCS LAYOUT, BANASHANKARI III STAGE
BENGALURU-560085
REP. BY ITS DESIGNATED PARTNER
AND AUTHORISED SIGNATORY
MR. YARRAPUREDDY SREENIVASULU REDDY.

...PETITIONER

(BY MS. DIANA LAURENCE PAUL, ADVOCATE FOR
SRI. SANJAY NAIR., ADVOCATE)

AND:

USHA
PROPRIETOR OF SISKAN PHARMA
HAVING ITS OFFICE AT NO.3041
VHBCS LAYOUT, NEAR KATHRIGUPPE WATER TANK
4TH PHASE, GIRINAGAR
BANASHANKARI III STAGE
BANGALORE – 560085.

...RESPONDENT

(BY SRI. CHANDRASHEKAR S, ADVOCATE FOR
SMT.MAYA HOLLA., ADVOCATE)

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HAREKOPPA THIMMANNA GOWDA

THIS CMP IS FILED UNDER SECTIONS 11(5) AND 11(6) OF ARBITRATION AND CONCILIATION ACT 1996, PRAYING TO APPOINT AN ARBITRATOR TO ADJUDICATE THE DISPUTE BETWEEN THE PARTIES HEREIN IN ACCORDANCE WITH THE PROVISIONS OF THE ARBITRATION AND CONCILIATION A T, 1996 AS PROVIDED UNDER THE ANNEXURE - A AND A1, CLAUSE 6 DATED 27.06.2024 AND OR PASS ANY OTHER ORDER OR DIRECTION IN THE CIRCUMSTANCES OF THE CASE, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

This petition is filed under Sections 11(5) and 11(6) of the Arbitration and Conciliation Act, 1996 (for short, "the Act"), seeking appointment of a Sole Arbitrator for adjudication of the disputes that have arisen between the parties under the Deed of Assignment of Trademark dated 27.06.2024, particularly in terms of Clause 6 thereof, produced at Annexures-A and A1.

2. The brief facts of the case are that the petitioner is a limited liability partnership registered under the Limited Liability Partnership Act, 2008, carrying on business in the Pharmaceutical Trade and Marketing of Medicinal

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Preparations. The petitioner and the respondent were previously associated in the Pharmaceutical Business. During their association, they have established The partnership and conducted Pharmaceutical Business. In the year 2024, the parties parted their ways commercially. Subsequently, the parties entered into Deed of Assignemnt of Trademark, on 27.06.2024, as per Annexures A and A1, transferring the marks and proprietary rights to the petitioner. Thereafter, the respondent now started her own proprietorship firm and establishing a pharmaceutical business using deceptively similar marks in respect of each of the assigned marks. Subsequently, disputes arose between the parties in relation to the Deed of Assignment of Trademark.

3. As the disputes arose between the parties, the petitioner, invoking the arbitration clause contained in the Deed of Assignment of Trademark, issued a notice dated 28.02.2026, vide Annexure-F, to the respondent under

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Section 21 of the Act. The said arbitration Clause 6 reads as under:

> *"6. GOVERNING LAW AND DISPUTE RESOLUTION*
>
> *6.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter, whether of a contractual or non-contractual nature, shall be governed by and construed in accordance with the laws of India. without regard to its conflict of law principles.*
>
> *6.2. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination, enforcement, or validity thereof may be referred by any party to binding arbitration.*
>
> *6.3. The arbitration proceedings shall be carried out in accordance with the Arbitration and Conciliation Act, 1996.*
>
> *6.4 The arbitral tribunal shall consist of one (1) arbitrator to be appointed mutually by the Parties. Where the Parties are unable to mutually decide upon a sole arbitrator within 20 days of reference to arbitration, the sole arbitrator shall be selected as per the Arbitration and Conciliation Act, 1996.*

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6.5 The seat of arbitration shall be Bangalore, Karnataka.

6.6 The arbitration proceedings shall be conducted in the English language.

6.7. The parties shall share the costs of the arbitrator's fees equally, but shall bear the costs on their own legal counsel engaged for the purposes of the arbitration.

6.8 The arbitral award shall be final and conclusive and binding upon the Parties and non- appealable to the extent permitted by law.

6.9. The Parties further agree that the arbitrator shall also have the power to decide on the costs and reasonable expenses (including reasonable fees of its counsel) incurred in the arbitration and award interest up to the date of the payment of the award.

6.10 Notwithstanding the reference to arbitration, the Parties shall have the right to approach any competent forum and seek injunctive relief subject to applicable law."

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4. Learned counsel appearing for the respondent has submitted that the matter is related to infringement of trademark which is not an arbitrable dispute so as to be referred to the arbitrator. In support of his contention, he has relied on the judgment of the Apex Court in the case of **Booz Allen and Hamilton Inc. vs. SBI Home Finance Limited and others** reported in **(2011) 5 SCC 532.**

5. Learned counsel for the petitioner has relied upon the latest judgment of the Apex Court in the case of **K.Mangayarkarasi and another vs. N.J.Sundaresan and another** reported in **(2025) 8 SCC 299** to contend that if the dispute arises between the parties out of assignment and when there is no public cause involved in the dispute, the matter can be arbitrable before the Arbitral Tribunal. The relevant paragraph is extracted below:

> *"5. The petitioners being dissatisfied with the order passed by the Commercial Court referred to*

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above challenged the same before the High Court by way of a civil revision application. The High Court rejected the revision application vide the impugned judgment holding as under:-

"……

…….

25. The Law laid down by the Apex Court in the aforesaid Judgments squarely apply to the case on hand. Admittedly, the dispute between the parties arise out of a contract of assignment. There is no public cause involved in this dispute. The question involved is one between the parties arise out of a contract of assignment. There is no public cause involved in this dispute. The question involved is one arising under the contract of assignment and its validity and binding nature and what is the effect of several payment received by the assignor from the 1st Respondent, as assignee/on various dates, which are matters to be considered by the Arbitral Tribunal and this is undoubtedly covered by the arbitration clause. The right claimed by the 1st Respondent is contractual as assignee of a Trademark. Disputes raised by the Petitioners is that there was no intention to assign the trademark and that too irrevocably to the 1st

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Respondent, but at the same time, the assignment in favour of the 2nd Petitioner is accepted. This renders the position of the Petitioners very week insofar as the merits of the claim are concerned. This despite is arbitrable and factual issues as also validity of the assignment and rights flowing from it can be decided by the Arbitral Tribunal. Further, the Suit is filed for the reliefs against the infringement and passing off, which by their very nature would fall within the jurisdiction of the Arbitrator. The right that is asserted by the 1st Respondent is not a right that emanates from the Trademark Act, but a right that emanates from the Assignment Deeds. The Assignment of a trademark is by a contract and not by a statutory act ".

6. Heard the learned counsel for the parties and perused the petition papers.

7. There is no dispute that the parties have entered into a Deed of Assignment of Trademark dated 27.06.2024. The said Deed of Assignment has an arbitration clause. Therefore, the matter requires to be referred to the arbitration while keeping all other contentions of the parties open to be raised before the

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learned arbitrator. This Court cannot decide all these issues under Section 11(6) of the Act. In view of the above, this Court is of the opinion that a Sole Arbitrator is required to be appointed for adjudication of the disputes between the parties.

7. Accordingly, the following:

ORDER

a) Civil Miscellaneous Petition is allowed.

b) The Hon'ble Dr.Justice N.Kumar, Former Judge, High Court of Karnataka, is appointed as the Sole Arbitrator in the present case to arbitrate the disputes between the parties at the Arbitration and Conciliation Centre (Domestic & International), Bengaluru, as per the Rules governing the said Arbitration Centre.

c) All the claims and contentions of the parties are left open.

d) Registry is directed to communicate this order via e-mail to the Arbitration and Conciliation Centre (Domestic & International), Khanija

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Bhavan, Bengaluru, and also to the Hon'ble Dr.Justice N.Kumar.

e) Registry is directed to return all the original documents produced by any of the parties after obtaining Photostat copies of the same.

f) Parties are directed to appear before the Director, Arbitration and Conciliation Centre, Bengaluru, on 17.12.2026 at 11:30 a.m.

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(H.T. NARENDRA PRASAD)
JUDGE

CM
LIST NO.: 1 SL NO.: 52