HC-KAR
NC: 2026:KHC:59537-DB
COMAP No. 511 of 2025
CNR: KAHC010641352025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

COMMERCIAL APPEAL NO. 511 OF 2025

BETWEEN:

S SHESHAGIRI
PWD CLASS-I CONTRACTOR
AGED ABOUT 56 YEARS
"KUSHAVATHI" AZAD ROAD, THIRTHAHALLI
SHIVAMOGGA-577 432.

...APPELLANT

(BY SMT. AKSHATHA SHETTY K, ADVOCATE)

AND:

M/S NAVODAYA ENTERPRISES (R)
A REGISTERED PARTNERSHIP FIRM
REPRESENTED BY ITS MANAGING PARTNER
SRI NAGANANDA HEGDE
S/O SRI. RAMACHANDRA HEGDE
AGED ABOUT 38 YEARS
HAVING REGISTERED OFFICE AT 1ST FLOOR,
'KAMALA TOWERS' URWA MARKET ROAD,
MANGALORE-575 006.

...RESPONDENT

(BY SRI. ANANDARAMA K, ADVOCATE FOR C/R
(CP NO.19282/25) & ALSO ACCEPTS NOTICE)

Digitally signed by MALA K N
Location: HIGH COURT OF KARNATAKA

THIS COMMERCIAL APPEAL UNDER SECTION 13 (1A) OF THE COMMERCIAL COURTS ACT, 2015 PRAYING TO (1) TO SET ASIDE THE IMPUGNED JUDGMENT AND DECREE DATED 15.07.2025 PASSED IN COM.O.S.NO.448/2023, BY THE HON'BLE I ADDITIONAL DISTRICT JUDGE AND COMMERCIAL

COURT, D.K., MANGALURU AND (2) TO REMAND THE MATTER BACK TO THE TRIAL COURT FOR FRESH ADJUDICATION, PERMITTING THE APPELLANT TO CROSS EXAMINE PW1 AND LEAD HIS OF DEFENCE EVIDENCE.

THIS APPEAL, COMING ON FOR ADMISSION, 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, has been filed against the judgment and decree dated 15.07.2025 passed in Commercial O.S.No.448 of 2023 by the 1st Additional District Judge and Commercial Court, Dakshina Kannada, Mangaluru.

2. Vide judgment and decree, the suit filed by the respondent/plaintiff has been decreed for an amount of Rs.2,39,67,924/- with interest at the rate of 9% per annum from the date of the suit till its realization and costs of the suit.

3. It appears that the defendant's counsel, for some reason, did not conduct the trial and he did not even cross-examine the plaintiff's witnesses. As there was no effective representation on behalf of the defendant inasmuch as the evidence of the plaintiff remained unchallenged, the suit came to be decreed.

4. For the brilliance of the counsel representing the party, party should not suffer as it would be against the interests of justice and therefore, having considered the impugned judgment and decree, we are of the view that, as there was no effective representation on behalf of the defendant, the judgment and decree needs to be set aside and thus, we ***allow*** the appeal and set aside the impugned judgment and decree, however, with a rider that the appellant/defendant shall deposit a sum of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs) within a period of 6 weeks from today before the concerned Court, which shall be invested in the fixed deposit. If the defendant fails to make deposit of Rs.1,50,00,000/- within

a period of 6 weeks, the appeal shall stand dismissed and the plaintiff/respondent would be at liberty to execute the decree. However, if the defendant deposits the amount as directed above within a period of six weeks from today, the Commercial Court will try the suit afresh from the stage of framing of the issues. Plaintiff and defendant shall be at liberty to adduce the evidence in support of their respective case and cross-examine each other's witnesses.

5. The Commercial Court should conclude the trial expeditiously preferably within a period of 4 months after the defendant deposits Rs.1,50,00,000/- i.e. within a period of 6 weeks from today.

6. With the aforesaid direction, we remand the matter back to the concerned Court for trial afresh.

The parties shall appear before the Court on ***30.11.2026***.

Accordingly, the appeal is ***allowed***.

The judgment and decree dated 15.07.2025 passed in Commercial O.S.No.448 of 2023 by the 1st Additional District Judge and Commercial Court, Dakshina Kannada, Mangaluru, is hereby set aside.

In view of disposal of the appeal, the pending interlocutory applications do not survive for consideration. Hence, they stand disposed of.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM
List No.: 1 Sl No.: 27