HC-KAR

NC: 2026:KHC:62910
WP No. 34183 of 2026

CNR: KAHC010750542026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 34183 OF 2026 (GM-CPC)

BETWEEN:

1. MR. KUMAR H.M.,
S/O. LATE MUNISWAMIAH
AGE : 48 YEARS
R/AT NO.21, 3RD CROSS,
3RD MAIN, BYRASANDRA,
JAYANAGAR 1ST BLOCK,
EAST BANGALORE SOUTH,
BENGALURU - 560 011.

2. MR. S. SATISH
S/O. LATE S.B. SOMAPPA
AGED ABOUT 57 YEARS
R/AT LAKSHMIPURAM EXTENSION,
HALESANTHEVERI ROAD,
SAKALESHPUR, HASSAN - 573134.

Digitally signed by VIJAYA P
Location: High Court of Karnataka

3. MR. MANOJKUMAR SHARMA
S/O SHIVA KUMAR SHARMA
AGED ABOUT 34 YEARS,
R/AT BANDEY, BANDE, SARAN,
AMNOUR BIHAR - 841401.

4. MRS. MOHANAKUMARI
W/O SRI. KUMAR M.,
AGED ABOUT 42 YEARS,
R/AT NO.21, 3RD CROSS, 3RD MAIN,

OPP. ANJANEYA TEMPLE, BYRASANDRA,
JAYANAGAR 1ST BLOCK,
EAST BANGALORE SOUTH,
BENGALURU - 560 011.

5. P.N. MOHANACHANDRA
S/O K. KUTTAN NAIR
AGED ABOUT 57 YEARS
R/AT NO.76/2, 3RD MAIN,
MTB AREAM, JAYANAGAR,
BENGALURU - 560 011.

6. MR. SYED WAYIZ PASHA
S/O LATE SYED HAFEEZ
AGED ABOUT 49 YEARS,
R/AT NO.454, 1ST FLOOR,
9TH CROSS, OPP. NOORANI MASJID
ILYAS NAGAR, J.P. NAGAR,
BENGALURU - 560 078.

7. SRI SHANTHIRAJ. N.,
S/O SRI. NARAYANAPPA
AGED ABOUT 51 YEARS,
R/AT NO.45, 4TH MAIN, BYRASANDRA,
JAYANAGAR 1ST BLOCK,
EAST BANGALORE SOUTH,
BENGALURU - 560 011.

8. SMT. SHAKUNTHALA
W/O SHANTHARAJ. N.,
AGED ABOUT 44 YEARS,
R/AT NO.45, 4TH MAIN, BYRASANDRA,
JAYANAGAR 1ST BLOCK,
EAST BANGALORE SOUTH,
BENGALURU - 560 011.

…PETITIONERS

(BY SRI. SRINIVASA, ADVOCATE)

AND:

1. SMT. NARASAMMA
   W/O. LATE MUNIYAPPA
   AGED ABOUT 71 YEARS
   REPRESENTED BY HER POWER OF
   ATTORNEY HOLDER,
   SRI. SAMPANGIRAMAIAH,

2. SRI. SAMPANGIRAMAIAH
   S/O. LATE MUNIYAPPA
   AGED ABOUT 46 YEARS,

3. KUM. THANUSHA S.,
   D/O. SAMPANGIRAMAIAH
   AGED ABOUT 19 YEARS,

4. MASTER S. VINAY
   S/O. SAMPANGIRAMAIAH
   AGED ABOUT 10 YEARS
   IS A MINOR. REPRESENTED BY
   HIS FATHER AND NATURAL GUARDIAN
   SRI. SAMPANGIRAMAIAH

   ALL THE ABOVE RESPONDENTS ARE
   RESIDING AT HOUSE NO. 5
   KUNCHIGARAPALYA,
   (GULIKAMALE DHAKALE) TARALU POST,
   UTTARAHALLI HOBLI,
   BANGALORE SOUTH TALUK,
   BANGALORE - 560060.

5. SRI. R.J. DAYANANDA
   S/O. SRI. JAYARAM R.,
   AGED ABOUT 43 YEARS,
   R/AT NO. 15, 4TH MAIN ROAD,
   BYRASANDRA, 1ST BLOCK, JAYANAGAR,
   BENGALURU - 560 011.

6. MRS. KAVYA J.,
AGED MAJOR,
R/AT NO.21, 3RD CROSS, 3RD MAIN,
BYRASANDRA, JAYANAGAR 1ST BLOCK,
EAST BANGALORE SOUTH
BENGALURU - 560 011.

7. MR. BHARATH J.,
AGED MAJOR, R/AT NO.21,
3RD CROSS, 3RD MAIN, BYRASANDRA,
JAYANAGAR 1ST BLOCK,
EAST BANGALORE SOUTH,
BENGALURU - 560 011.

8. MRS. VARALAKSHMI
AGED MAJOR, R/AT NO.21,
3RD CROSS, 3RD MAIN, BYRASANDRA,
JAYANAGAR 1ST BLOCK,
EAST BANGALORE SOUTH,
BENGALURU - 560 011.

9. MR. RADHA K.,
AGED MAJOR, R/AT NO.21,
3RD CROSS, 3RD MAIN, BYRASANDRA,
JAYANAGAR 1ST BLOCK,
EAST BANGALORE SOUTH,
BENGALURU - 560 011.

10. SHANTHI RAJ
AGED MAJOR, R/AT NO.21,
3RD CROSS, 3RD MAIN, BYRASANDRA,
JAYANAGAR 1ST BLOCK,
EAST BANGALORE SOUTH,
BENGALURU - 560 011.

11. MRS. SOUNDARYA H.U.,
AGED MAJOR, R/AT NO.21,
3RD CROSS, 3RD MAIN, BYRASANDRA,
JAYANAGAR 1ST BLOCK,

EAST BANGALORE SOUTH,
BENGALURU - 560 011.

12. MR. RAMESH R.,
AGED MAJOR, R/AT NO.21,
3RD CROSS, 3RD MAIN, BYRASANDRA,
JAYANAGAR 1ST BLOCK,
EAST BANGALORE SOUTH,
BENGALURU - 560 011.

...RESPONDENTS

(BY SRI. NATARAJ S. JAIN, ADVOCATE FOR R1 TO R4)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO-CALL FOR THE RECORDS IN COMMERCIAL O S NO. 216/2024 PENDING ON THE FILE OF THE X ADDL. DISTRICT AND SESSION JUDGE (COMMERCIAL COURT) BENGALURU RURAL DISTRICT BENGALURU AND SET ASIDE THE IMPUGNED ORDER PASSED BY THE TRIAL COURT IN I A NO. 14 DATED 25.09.2026 IN COMMERCIAL O S NO. 216/2024 DISMISSING THE APPLICATION FILED BY THE PETITIONERS UNDER SECTION 11 OF THE KARNATAKA COURT FEES AND SUIT VALUATION ACT 1958, FOR NON PROSECUTION WHICH IS PRODUCED AS ANNX-K FURTHER PRAYS TO DIRECT THE TRIAL COURT TO CONSIDER THE APPLICATION UNDER SECTION 11 OF KARNATAKA COURT FEE AND SUIT VALUATION ACT ON MERITS WHICH IS PRODUCED AS ANNX-D DATED 16.07.2026 AND ETC,.

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

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL ORDER

The present petition is filed impugning the order dated 25.09.2026, whereby I.A. No.14, filed seeking determination of the court fee payable by the plaintiffs and recovery of the deficit court fee, has been rejected.

2. Learned counsel appearing for the petitioners submits that I.A. No.14 was filed under Section 11 of the Karnataka Court Fees and Suits Valuation Act, 1958, contending that the court fee paid was insufficient. It is submitted that, as learned counsel was unable to advance oral arguments, written arguments were filed. However, the Commercial Court, without considering the written arguments, erroneously rejected the application for non-prosecution.

2.1 It is further submitted that, though Issue No.11 has been framed regarding the sufficiency of the court fee, Section 11 of the Karnataka Court Fees and Suits Valuation Act, 1958, mandates determination and payment of the requisite court fee before commencement of recording of evidence.

3. *Per contra*, learned counsel appearing for respondent Nos.1 to 4 submits that sufficient opportunities were granted to the petitioners to advance arguments on I.A. No.14. However, despite being afforded multiple opportunities, the petitioners failed to avail the same. In such circumstances, the Commercial Court was justified in rejecting the application so as to avoid further delay in the adjudication of the suit.

4. Considered the submissions made by the learned counsel for the parties and perused the impugned order.

5. It is evident from the order sheet that the Commercial Court had granted more than four opportunities to the petitioners to address arguments on I.A. No.14. However, the petitioners failed to avail of the said opportunities. Though written submissions were filed, a subsequent adjournment was sought and granted for advancing oral arguments. It does not appear that the petitioners had submitted that they did not intend to advance oral arguments in view of the written submissions already filed. In view of the repeated requests for adjournments and pass-overs made by the petitioners before

the Commercial Court, the application came to be rejected for non-prosecution.

6. This Court finds no error in the order passed by the Commercial Court. However, I.A. No.14 raises a question relating to the alleged insufficiency of court fee, which requires consideration on merits. Though interference with the impugned order by granting one more opportunity to the petitioners may cause some hardship to the respondents, this Court is of the view that the issue raised in the application warrants consideration. In order to afford the petitioners an opportunity to advance their arguments on I.A. No.14, this Court is inclined to entertain the petition.

7. Accordingly, the following:

ORDER

i) The writ petition is ***allowed***.

ii) The impugned order dated 25.09.2026 is hereby ***set aside***.

iii) I.A. No.14 is ***restored*** to the file of the Commercial Court for fresh consideration and adjudication on merits.

iv) The petitioners shall conclude their arguments on I.A. No.14 on the next date of hearing, stated to be 19.11.2026, subject to payment of costs of Rs.1,00,000/- to the Karnataka State Legal Services Authority.

v) The Commercial Court shall permit the petitioners to advance arguments only upon production of the acknowledgment evidencing payment of the aforesaid costs.

vi) In the event the petitioners fail to advance and conclude their arguments on the said date, the Commercial Court shall proceed to reject the application for non-prosecution, for the reasons assigned in the impugned order.

Sd/-
(K. V. ARAVIND)
JUDGE

DDU/List No.: 1 Sl No.: 14