



HC-KAR

- 1 -

NC: 2026:KHC:19437-DB
WP No. 2847 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT PETITION NO. 2847 OF 2025 (GM-RES)

BETWEEN:

M/S UNISHIRE BUILDERS PRIVATE LIMITED,
A COMPANY REGISTERED UNDER THE INDIAN
COMPANIES ACT, 1956, AND HAVING ITS
REGISTERED OFFICE AT NO.36,
RAILWAY PARALLEL ROAD,
NEHRU NAGAR, KUMARA PARK WEST,
BENGALURU - 560 020.

PRESENTLY AT:
NO.42, CASTLE STREET,
ASHOK NAGAR,
BENGALURU - 560 025.
REPRESENTED BY
ITS AUTHORISED SIGNATORY
SRI. PRATIK K. MEHTA.

...PETITIONER

(BY SRI. G S VENKAT SUBBARAO, ADVOCATE)

AND:

1. SRI. SYED ASIF,
S/O. LATE SYED ABDUL SATTAR,
AGED ABOUT 60 YEARS.
2. SMT. NASREEN ASIF
W/O. SRI.SYED ASIF,
AGED ABOUT 58 YEARS.





3. SRI. SYED ABDULLA,
S/O. SRI. SYED ASIF,
AGED ABOUT 37 YEARS.
4. MS. SAKINA SYED ASIF,
D/O. SRI. SYED ASIF,
AGED ABOUT 34 YEARS,
5. SRI. SYED UMAR ASIF,
S/O. SRI. SYED ASIF,
AGED ABOUT 33 YEARS,
6. MS. AYESHA ASIF,
D/O.SRI. SYED ASIF,
AGED ABOUT 30 YEARS,

RESIDING AT NO.14,
PARK ROAD,
TASKER TOWN,
BANGALORE - 560 052.

...RESPONDENTS

(BY SRI. HEGDE SHRIPAD GANGADHAR,
ADVOCATE FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE INDIAN CONSTITUTION, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING IMPUGNED ORDER DATED:21.01.2025 PASSED BY THE SOLE ARBITRATOR HON'BLE JUSTICE V JAGANNATHAN ON IA FILED UNDER SECTION 5 OF THE ARBITRATION AND CONCILIATION ACT 1996 READ WITH SECTION 10 OF CPC, IN A.C.NO.72/2024, VIDE ANNEXURE-'A' AND ETC.

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



CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL ORDER

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

The petitioners are before us in this Writ Petition filed under Articles 226 and 227 of the Constitution of India, calling in question the order dated 21.01.2025 passed by the sole Arbitrator on Interlocutory application filed under Section 5 of the Arbitration and Conciliation Act, 1996¹ R/w Section 10 of CPC, in A.C No.72/2024 (Annexure-A).

2. Under the impugned order, the sole arbitrator rejected the application in view of the observation made by this Court in Paragraph Nos.4, 6, 7 and 9 of its order in CMP No.6767/2022.

3. The parties are referred to as per their rankings before the Arbitrator.

4. The respondent filed an application under Section 5 of A & C Act, 1996 R/w Section 10 of CPC

¹ A & C Act, 1966



seeking to stay all further proceedings before the Arbitrator on account of suit instituted in OS No.292/2023 pending on the file of City Civil Court in respect of the subject matter of the present arbitral proceedings.

5. Before the Arbitrator, the respondent submitted that during the pendency of CMP No.767/2022 before this Court, the claimant had executed a registered Gift Deed dated 09.08.2022, in respect of the subject matter of Joint Development Agreement dated 13.11.2013. Therefore, the comprehensive suit for declaration and other claims has been filed in O.S No.2922/2023 and the same is pending consideration. It was further submitted that the subject matter in the suit as well as the arbitration proceedings being one and the same, the application is filed. The claimants in the arbitral proceedings filed an application for rejection of plaint and the suit, which came to be dismissed vide order dated 09.08.2024. In these circumstances, it is just and necessary to stay the arbitral proceedings till the rights of the parties, which is also



substantially an issue in the suit filed by the respondent is adjudicated. In the light of the above submissions, referring to Section 10 of CPC and also relying on the judgment of Delhi High Court reported in **(2022) 1 HCC (Delhi)** submitted that, since the suit was filed earlier to arbitral proceedings, it is necessary to stay all further proceedings before the Arbitrator.

6. The claimant opposed the contentions raised contending that all these contentions have already been considered by the High Court while disposing of the CMP and appointing the sole Arbitrator. Section 10 of CPC is not applicable in view of express provision contained in A & C Act, 1966. The challenge to order in CMP 767/2022 by the present respondent unsuccessfully before the Supreme Court. It is further submitted that on the submissions of the claimant, this Court in CMP at paragraph No.9 has considered that in view of 'unequivocal and categorical statement before the Court, which is taken on record to ensure that it prevails with all its import, is that the



petitioners are willing to state that their respective rights under the Gift Deed dated 19.08.2022 will be subject to adjudication of the petitioner's right in the arbitral proceedings' and accordingly, appointed the sole Arbitrator.

7. The Arbitral Tribunal² upon consideration of rival submissions, importing Section 5 of the A & C Act, in the order, formed an opinion that the order passed by the High Court in the CMP in view of dismissal of the SLP attained finality, therefore it is not open to the respondent to agitate the very same ground which he has already taken and considered by this Court in the CMP stated supra and holding that both the proceedings i.e., Arbitral proceedings and the Original Suit are entirely on different question and since Section 10 of CPC has no application to the arbitral proceedings, rejected the application. It is this order passed by the AT is called in question in this Writ Petition.

² 'AT' for short



8. Heard, Sri.G.S.Venkata Subbarao, learned counsel appearing for the petitioner and Sri.Hegde Shripad Gangadhar, learned counsel appearing for respondents 1 to 3.

9. Though Sri.Venkata Subbarao, tried to submit on the merits of the case but on the query by us in respect of preliminary objection regarding maintainability of this Writ Petition against arbitral proceedings i.e., supervisory jurisdiction of the High Court over arbitral proceedings under Article 227 of the Constitution of India, relied on the Judgment of the Hon'ble Apex Court in ***SEROSOFT SOLUTIONS PRIVATE LIMITED VS. DEXTER CAPITAL ADVISORS PRIVATE LIMITED***³, to contend that the High Court has got supervisory jurisdiction over the arbitral proceedings under Article 227 of the Constitution of India. He referred to Paragraph No.14 of the Judgment to contend that interference is permissible under certain circumstances.

³ 2025 SCC OnLine SC 22



10. We have gone through the Judgment. In Paragraph Nos.14 and 15 of the Judgment, the Apex Court has observed as under:

"14. In any event of the matter when the Arbitral Tribunal by its order dated 09.10.2024 held - 'that far and no further', to the respondent/claimant's endeavour to cross-examine RW-1, the High Court should have restrained itself from interfering. In order to justify its interference and extension of time, the High Court has referred to and relied on a judgment of the same Court¹. Certain conditions for exercising jurisdiction under Articles 226/227 are mentioned in the judgment. Conditions (v) and (vi) of the said judgment could have provided sufficient guidance for the High Court to consider whether interference is warranted or not. The relevant portion of the said order is as under:-

"(v) Interference is permissible only if the order is completely perverse i.e. that the perversity must stare in the face.

(vi) High Courts ought to discourage litigation which necessarily interfere with the arbitral process.

(vii) Excessive judicial interference in the arbitral process is not encouraged.

(viii) It is prudent not to exercise jurisdiction under Articles 226/227.

(ix) The power should be exercised in 'exceptional rarity' or if there is 'bad faith' which is shown.

(x) Efficiency of the arbitral process ought not to be allowed to diminish and hence



interdicting the arbitral process should be completely avoided."

15. It is evident from the above that even as per the quote hereinabove interference Under Article 226/227 is 'permissible only if the order is completely perverse i.e. that the perversity must stare in the face.' Condition (vi) to (x) underscores the reason why High Courts ought not to interfere with orders passed by the Arbitral Tribunals for more than one reason."

11. It is clear from Paragraph Nos.14 and 15 that, the party must make out a case of perversity in the order i.e., perversity must stare on the face to exercise the supervisory jurisdiction under Article 227 of the Constitution of India. In the absence of such perversity, which is staring in the face of it, the High Courts must be loath in interfering with the orders passed by the Arbitral Tribunals exercising supervisory jurisdiction under Article 227.

12. To the query, Sri.G.S.Venkata Subba Rao, is unable to make out any perversity on the face of it in the order passed by the Arbitral Tribunal. In that view of the matter, we refrain from exercising supervisory jurisdiction under Article 227 with the order passed by the Arbitral



Tribunal. In these circumstances, the Writ Petition fails and is accordingly, ***dismissed***.

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

**Sd/-
(T.M.NADAF)
JUDGE**

TKN
List No.: 1 Sl No.: 17
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