

KABC170034442024



**IN THE COURT OF LXXXV ADDL. CITY CIVIL & SESSIONS  
JUDGE, AT BENGALURU (CCH-86) (Commercial Court)**

**THIS THE 5<sup>th</sup> DAY OF JUNE 2025**

**PRESENT:  
SRI.ARJUN. S. MALLUR. B.A.L.L.B.,  
LXXXV ADDL. CITY CIVIL & SESSIONS JUDGE,  
BENGALURU.**

**Com.OS.No.1713/2024**

**PLAINTIFF:**

**Mr. K S Nandagopal,**

Aged about 57 years,

S/o K.C. Shankaraiah Naidu,

Proprietor Of M/S Sri Balaji Creations,

No.146, Sy No.34/1, Khata No.823/783/792/103/34/1/146,

Kodichikkanahalli Village Begur Hobli, Bangalore 560 076

(near Jahnvi Enclave Apartments Backside Entrance),

**Since deceased by his LR's,**

**1.(a). Smt. Jamuna K N,**

W/o Late. Nanda Gopal K S,

Aged about 49 years,

Residing at #208/209, 3<sup>rd</sup> Cross,

Royal Shelters, Devarachikkanahalli,  
Bengaluru South,  
Bengaluru -560076.

**1.(b) Balu Chandar K N,**  
S/o Late Nanda Gopal K.S,  
Aged about 28 years,  
Residing at #208/209, 3<sup>rd</sup> Cross,  
Royal Shelters, Devarachikkanahalli,  
Bengaluru South,  
Bengaluru – 560076

**1. (c) Sindhuja K N,**  
S/o Late Nanda Gopal K.S,  
Aged about 26 years,  
Residing at #208/209, 3<sup>rd</sup> Cross,  
Royal Shelters, Devarachikkanahalli,  
Bengaluru South,  
Bengaluru – 560076

**(Represented By Sri. G.V.Sudhakar, Advocate)**

**: Versus:**

**DEFENDANT:**

**Mr. K V Ranjith Kumar,**  
S/o Mr. K.Venka Ramana Naidu,  
Proprietor Of V R Construcitons,  
R/At No.85, Narendra Nilaya,  
Nagasandra Main Road, Behind Garadi Apartments,  
T R Nagar Bengaluru-560 028.

**(Represented by Sri. Akshay Huddar, Advocate)**

**IA.NO.I**

**Applicant/Defendant: Mr. K V Ranjith Kumar,**

(Represented by Sri. Akshay Huddar, Advocate)

**V/s**

**Opponent/Plaintiff: Mr. K S Nandagopal, Since  
deceased by his LR's,**

(Represented By Sri. G.V.Sudhakar, Advocate)

(i)	Provisions under which the application is filed	U/o.VII Rule 11(a) and (d) of CPC
(ii)	Relief sought for	For rejection of the plaint as barred by law.
(iii)	The date on which the application is filed	25.02.2025
(iv)	Number of the application	I.A.No.1
(v)	The date on which the objections are filed by different opponents	01.04.2025
(vi)	The date on which the orders were passed on the said application	05.06.2025

**ORDER ON IA.NO.I**

I.A.No.1 is filed by the defendant U/o.VII Rule 11(a) and (d) of CPC seeking rejection of the plaint contending

that the plaint does not disclose a valid cause of action as the suit relates to recovery of the GST amount which falls within the ambit of concerned dispute resolution authority under the Goods and Services Tax Act 2017 and therefore the plaint is barred by law and also no cause of action.

**2.** It is contended by the defendant that the plaintiff is seeking recovery of a sum of Rs.55,85,582/- being the GST amount paid by the plaintiff and that the relief claimed in the suit is with respect to levy of the GST amount which false exclusively within the ambit of GST Act 2017 which provides for a separate mechanism for resolution of the disputes and therefore neither there is any cause of action for the suit nor the suit is maintainable in view of the specific bar under the GST Act and hence the application.

**3.** Objections are filed by the plaintiff contending that the present application is based on false and frivolous grounds only to protract the proceedings. It is contended that the plaintiff during his tenure as a tenant under the defendant has paid the GST payable with respect to the

rents and when the plaintiff filed the returns claiming for GST input tax credit the same was declined and notice came to be issued for payment of the GST amount on the ground that the defendant has remained in arrears in payment of the amount which the plaintiff had to make good and thereafter the present suit is filed for recovery of the said amount from the defendant which can be adjudicated only before a Civil Court and not before the statutory authority under the GST Act and on these grounds sought for rejection of the application with exemplary cost.

**4.** Heard the learned counsels appearing for the plaintiff and the defendant and perused the entire material on record.

**5.** The points for consideration are:-

1) Whether the defendant substantiates that there is no cause of action for the suit and that the relief claimed is barred under the GTS Act 2017 rendering the plaint

liable to be rejected under Order VII Rule 11(a) and (d) of CPC?

2) What order?

6. My answer on the above point is as under:

Point No.1: **In the Negative.**

Point No.2: As per final order for the following

### **REASONS**

7. **POINT NO.1**:- The plaintiff has filed this suit for recovery of a sum of Rs.55,85,424/-. Plaintiff was a tenant under the defendant with respect to the tenanted premises which is not in dispute. The tenancy was for a period of 10 years commencing from 2018 and under the tenancy the plaintiff had paid a sum of Rs.1 crore as security deposit. The plaintiff has been paying the rents along with applicable GST every month to the defendant and the defendant was required to remit the GST amount to the concerned department. The tenancy came to be terminated with effect from 31.03.2023. The plaintiff had

claimed for GST input credit and he received a notice from the tax department on 21.09.2023 stating difference in the amount paid and was directed to pay the difference amount with interest and penalty. Thereafter the plaintiff came to know that the defendant had not at all remitted the GST for the months April 2020 to October 2022. In response to the notice issued by the tax department the plaintiff has paid the GST amount with interest totaling to a sum of Rs.49,98,842.01ps. It is alleged in the plaint that the defendant is liable to pay the said amount to the plaintiff.

**8.** The defendant is seeking rejection of the plaint on two grounds. The first ground urged is that there is no cause of action for the suit. The plaintiff is the master of his case. It is a settled position of law that cause of action is a mixed question of law and facts. Para 9 of the plaint describes cause of action having arose on 21.09.2023 when the plaintiff received the GST notice from the tax department and again on 05.01.2024 when the plaintiff issued legal notice calling upon the defendant to make good the GST amount. Whether such cause of action is

existed or not is subject matter of trial and the plaintiff has to be provided an opportunity to lead evidence and establish that there arose a cause of action for the suit. Hence the contention of the defendant that there is no cause of action for the suit cannot be sustained.

**9.** The next ground on which rejection of plaint is sought is that the subject matter of the suit relates to payment of GST amount for which the plaintiff has to take recourse to the mechanism provided for resolution of dispute under the GST Act 2017. No doubt the amount claimed in the suit refers to the GST amount. It is the case of the plaintiff that during his tenancy under the defendant along with the monthly rents the relevant applicable GST amount was also paid by him to the defendant and the defendant had not remitted the GST amounts for the period April 2020 to October 2022 because of which when the plaintiff claimed input credits he received a notice for payment of differential amount with interest and penalty which amounted to Rs.49,98,842.01ps which has been remitted by the plaintiff. This is also evident from the notice that is produced along with the plaintiff at

document No.4. This amount has been made good by the plaintiff which he is now seeking the defendant to pay and the defendant having not replied to the notice calling upon him to make the said payment, the plaintiff has filed this suit. Though the amount refers to GST amount the subject matter of the suit can only be tried and decided before Civil Court and not before any authority under the GST Act. It is not the case of the plaintiff regarding any dispute with regard to amount claimed by the GST department. On the other hand the GST amount that was required to be paid by the defendant has been made good by the plaintiff which through this suit the plaintiff is seeking to recover from the defendant. Therefore the subject matter falls clearly within the ambit of the Civil Court and it has to be decided only by the Civil Court and not by any authority provided for dispute resolution under the GST Act 2017. Hence the contention of the defendant that the relief claimed in the suit is barred under the GST Act also cannot be sustained. In the result for the aforesaid reasons, I answer Point No.1 in the **Negative.**

**10. POINT NO.2:-** For the aforesaid reasons, I pass the following:

**ORDER**

I.A.No.1 filed by the defendant U/o.VII Rule 11(a) and (d) of CPC is **rejected.**

No order as to costs.

(Dictated to the Stenographer Grade-III, transcribed by her, corrected and then pronounced by me in open court on this the **5<sup>th</sup> day of June, 2025**)

**(ARJUN. S. MALLUR)**  
**LXXXV Addl.City Civil & Sessions Judge,**  
**Bengaluru.**