



**IN THE COURT OF THE PRL. DISTRICT & SESSIONS
JUDGE, AT: CHITRADURGA**

Present:

Sri Ron Vasudev, *B.Com,LL.B.(Spl)*
Prl. District & Sessions Judge,
Chitradurga

Dated this the 18th day of December, 2025

COM OS No.16/2025

Plaintiff:

KSR Builders & Developers
Registered Partnership firm,
Represented by its partners.

(By Sri. J.N. Vasanth Kumar,
Advocate)

-VERSUS-

Defendants:

1. Smt. Jayamma @ Tolasamma
W/o Late. Shivaraman
& others.

(R1 by Sri. R. Jagadeesh, Adv.,
R2 to 5 by Sri H.B. Deviprasad, Adv.,)

ORDER ON IA NO.II

This application is filed under Order VII Rule 11(d) R/W/S.151 of CPC and Sec.6 R/W/S.2(1)(c) of The Commercial Courts Act, 2015 by the defendant No.2 to 5. It is opposed by the plaintiff by filing its written objection.

2. I have heard Sri HBD advocate for the defendant No.2 to 5 and Sri HSM advocate for the plaintiff. The counsel for plaintiff has also filed his written arguments.

3. In this background now the following points would arise for my consideration:

1. *Whether the defendant No.2 to 5 have shown that the plaint is liable to be rejected as it is barred by law?*
2. *What Order?*

4. On going through the case file and submission of both side, my finding on the above points are as under:-

Point No.1 – In the negative

Point No.2 – As per below,

for the following:

REASONS

5. **Point No.1:-** The substance of the plaint allegations would show that, claiming itself as a registered partnership firm and engaged in developing of immovable properties in the name of KSR Builders and Developers, the plaintiff entered in to a registered agreement of sale with the defendants to purchase suit items comprising in all 1 acre 26 guntas of Chitradurga by paying Rs.90,00,000/- as earnest money against the total sale consideration of Rs.2,65,00,000/-, but the defendants have failed to

perform their part of contract, it seeks to enforce the said agreement. It is also seeks for possession of schedule items and consequential relief of permanent injunction to restrain them from alienating the said items or creating any kind encumbrance on them.

6. In response to the suit summons the defendant No.1 appeared and filed her written statement, whereas the defendant No.2 to 5 have filed memo adopting the same. Though initially the defendant No.1 to 5 were represented by the very same advocate, later the defendant No.2 to 5 engaged a separate advocate for themselves. Now the said counsel for defendant No.2 to 5 has come up with the application in hand stating that the present suit purely a suit for specific performance of contract in relation to land and it has no nexus with the commercial transaction as such it does not fall within the definition of commercial dispute as defined U/Sec.2(c) of the Act, so this court has no jurisdiction to decide this lis, they seek to reject the plaint.

7. On the other hand the plaintiff contends that when it described itself as builder and developer in the plaint cause title and when that description was not at all challenged or disputed in her written statement by the defendant No.1, these defendant No.2 to 5 having not filed their written statement, they

cannot file IA seeking to reject the plaint. Then referring to definition of commercial dispute as contained in Sec.2(c)(vii) of the Act and also the definition specified value as contained in Sec.2(d)(i) and also referring to various decisions, but without providing their copies, the plaintiff contend that application in hand is filed just to protract the litigation having no genuine intention to redress the grievance. Thus it prays to dismiss the IA.

8. In view of these rival claims, I have gone through the case file and also the allegations made by both side as well as issues framed by this court. Further I have also gone through the documents produced by the plaintiff. On thorough reading of the relevant provisions of The Commercial Courts Act, I find that there is lot of force in the submission of plaintiff that when it described itself as a partnership firm, engaged in developing of immovable property as a builder and developer and it allegedly entered in to a registered agreement of sale to purchase suit properties, obviously looking to the location of the suit items and the profession of the plaintiff, one has to think that it so done for the purpose of developing the said items either for their commercial use or for some other developmental purpose. No matter these things may not be found in the impugned registered

agreement of sale, however the same can be gathered on the basis of the attendant circumstances.

9. At the same time one cannot agree to the submission of the plaintiff that since the defendant No.2 to 5 have not filed written statement, they cannot maintain IA in hand. I would reject the said submission on two grounds. Firstly when this court proceeds to decide an IA like the one in hand, filed under Order VII Rule 11(d) of CPC it has to go by the contents of the plaint and documents produced with it and without looking at the written statement or its contents. Secondly the order sheet proceedings as well as memo filed by the defendant No.2 to 5 on 23.08.2025 would show that the defendant No.2 to 5 adopted the written statement of defendant No.1. So primary objection of the plaintiff that the defendant No.2 to 5 have no right to maintain this IA has to be rejected. The same view is affirmed in the decision reported at 2025(2) KCCR 1266 relied by the defendants.

10. Now turning to the submission of the defendant No.2 to 5 that the present suit does not involve a commercial dispute, I would straight away turn to the definition of the term commercial dispute as contained in Sec.2(1)(c)(vii). There it is stated that commercial dispute means a dispute arising out of

agreement relating to immovable property used exclusively in a trade or commerce. As alleged by the plaintiff, it being a commercial venture engaged in developing of immovable property, it entered in to a registered agreement of sale with the defendants. So when it is a commercial venture and enters in to an agreement of sale, it is needless to say that it so done with an intention to use the said items for the purpose of its trade or commerce. The way definition of “commercial dispute” has been defined by legislatures in Sec.2(1)(c)(i) to (xxii) would show that they have tried to include almost all forms of commercial transactions in order to expedite the trial in respect of such transactions. Therefore one has to give prominence to the object of legislatures instead of abridging it. Therefore I do not find any merit in the application in hand.

11. I repeat that while entertaining IA of this nature, court has to go by the contents of the plaint and it cannot advert to the defence taken up in the written statement. Moreover even assuming for a moment that this commercial court has no jurisdiction to decide the lis on the reason that the present dispute does not fall within the definition of “commercial dispute” then also plaint cannot be rejected and at the most this court has to return the same to present before the proper forum. Therefore viewed from any

angle IA in hand lacks merit, accordingly I answer this point in the negative.

12. **Point No.2:** In view of my above findings, I proceed to make the following:

ORDER

IA No.II filed under Order Order VII Rule 11(d) R/W/S.151 of CPC and Sec.6 R/W/S.2(1) (c) of The Commercial Courts Act, 2015 by the defendant No.2 to 5 is dismissed with cost of Rs.3,000/- payable to the plaintiff.

(Dictated to the Stenographer Grade-III, transcribed and computerized by her, corrected and signed by me and then pronounced in the open Court on this the 18th day of December 2025)

(Ron Vasudev)

Prl. District & Sessions Judge,
Chitradurga.

TD

* * *