

**IN THE COURT OF JUDGE, COMMERCIAL COURT
(DISTRICT JUDGE CADRE), COIMBATORE**

Present: **Thiru. K.Hariharan, M.L.,**
Judge,
Commercial Court (District Judge Cadre),
Coimbatore

Tuesday, the 17th Day of March 2026

C.O.S.No.59 of 2023

(CNR No.TNCB22-000453-2023)

[Coimbatore, P.D.J, Court Old C.O.S.No.11 of 2021]

M/s. Dimensions,
A Partnership Firm,
Represented by its Partner Dr.A.Sudhahar Plaintiff

// Vs //

1. M/s. Hethaiamman Charitable Trust,
Represented by its Managing Trustee Mr.Hallan
2. Mr. Hallan
Managing Trustee of M/s. Hethaiamman Charitable Trust, Defendants

This suit came up for final hearing before me on 10.03.2026 in the presence of Thiru. C.P.Prem Anand, Advocate for the plaintiff and Thiru.R.Balasubramanian, Advocate for the defendants and upon perusing the records and mediation report and hearing both sides and having stood over for consideration till this date, this court doth passed the following:-

JUDGEMENT

The suit has been filed by the plaintiff for the relief directing the defendants to pay a sum of Rs.59,93,644/- together with interest at the rate of 12% per annum on the balance due amount of Rs.56,50,000/- from the date of suit till the date of realization to the plaintiff and for costs.

2. The Plaint averments which are found essential for the disposal of the suit is that:-

a) It is the submission of the plaintiff that the plaintiff is the registered partnership firm and doing business in the field of construction ever since 2012. The defendants had approached the plaintiff for construction of their school building in the name and style of M/s. The Ooty Public School in their vacant land situated at S.F. No.992/1B-3A, Onnipalayampudur, Bilichi Village, Coimbatore and subsequently the defendant and the plaintiff had entered into a written agreement on 27.09.2016. The plaintiff submit that the agreement was entered into for the construction of the ground floor and the rate was fixed at Rs.1,092/- per sq. ft., which was mutually agreed by the plaintiff and the defendant trust and further agreed that if there was any deviation in the construction work on the request of the defendant, it shall be done based on the mutual consent by both parties. The plaintiff further submit that based on the agreement the plaintiff has started the construction work on 16.09.2016 and submit that due to non availability of electricity connection the work was stalled

for more than a month and thereafter with temporary electricity connection the earth work excavation for the foundation was commenced by the plaintiff and submit that again the work was stalled for almost two months due to shifting of electricity pole. After with much difficulty because of the delay in electricity connection, the plaintiff was able to complete the basement and RCC concrete of the basement on 09.01.2017. The plaintiff further submit that the plan given at the inception was further modified by the defendants and there were lot of deviation in the actual plan on the defendants demand. Further it is the submission of the plaintiff that as per the clause No.11 and Annexure B of the agreement the defendants must pay the amount in advance in stage by stage, but the defendants has delayed in making payment and submit that even though there was undue delay in disbursement of the amount from the defendants, the plaintiff was able to complete the concrete of the main slab of the ground floor on 22.03.2017. The plaintiff submit that the defendants have been exerting pressure on the plaintiff to complete the building in a hurried manner so as to show the building for inspection in order to obtain the license from Educational Authority. The plaintiff has completed the masonry work on 18.04.2017 involving huge amount of labour and the plaintiff has also invested money and completed the plaster of the building on 05.06.2017. The construction work was monitored and inspected by the defendant's representative and found to be satisfactory.

b) The plaintiff further submit that there was total modification from the actual span and sizes of portico and basement areas and submit that the plaintiff had already informed the defendants about the expenses and the defendants had accepted the same and promised to pay the extra expenses incurred by the plaintiff for those modifications as per the agreement. The plaintiff submit that after completion of work the defendants have been protracting and avoiding to make payment to the plaintiff and alleged that the measurement sheet provided by the plaintiff for payment is not complete and there are certain changes. The plaintiff had discussed with the defendant trustees and it was decided that the measurements shall be taken by a third person namely another approved engineer in the same field and the measurements ascertained, but till date the defendants have not come forward to measure the same and to pay the payment to the plaintiff. The plaintiff submit that as per their calculation a sum of Rs.56,50,000/- is due to the plaintiff from the defendants based on the measurement sheet produced by them to the defendants on 01.02.2018. The plaintiff further submit that the defendants have started to run the school in the said building even before the handing over of the building by the plaintiff in completed stage. The plaintiff has inspected the defendant building and have informed about the re-plastering as it is unsafe to operate and further submit the defendants assured to pay the same but did not do so and protracted the same on one pretext or another.

c) The plaintiff submit that the plaintiff has requested the defendants to pay at least a part sum of Rs.8,00,000/- from out of the total due of Rs.56,50,000/- and so that the plaintiff could re-plaster the entire delaminated corridor. But, the defendants have not turned up to set right the issue nor took steps to repay the plaintiff as accepted by them earlier and therefore the plaintiff has also addressed a letter on 01.02.2018 to the defendants appraising them of the entire issue and even after receiving the same, with an ill motive the defendants have not come forward to settle the issue. The plaintiff submit that the defendants have been evading to make payment to the plaintiff either based on his measurement or through measurement of any qualified third-party engineer by making excuses and casting blame on the plaintiff. Therefore, the plaintiff has issued the legal notice dated 25.06.2020 to the defendants and after receipt of the notice the defendants issued their reply on 28.07.2020 with false contention and claimed a sum of Rs.76,46,506/- from the plaintiff without any basis and hence the plaintiff has issued a rejoinder to the defendants on 28.08.2020 stating that the claim of the defendants is legally enforceable under law in force. Further the plaintiff denied that the total sq. ft. of building including the additions and alterations done by the plaintiff is only 13,382 sq. ft as stated by the defendant in their reply and submit that the quotation as given by the plaintiff is for 12,500 sq. ft as per old plan for ground floor. and there was an extension in the portico from 400 Sq. ft from old plan to 1182 Sq. ft.

d) It is the contention of the defendants that the bill has been calculated for 13,282 sq. ft. at Rs.1092/- and comes to Rs.1,45,03,944/- and there were extra constructions of basement room under the portico as well as the basement room starting from south-west room including the aforesaid extra construction and submit that the said extension and additions are all extra work done by the plaintiff with the defendants' consent as per the agreement which comes to 7022 sq. ft and further submit that the defendants has purposely suppressed the fact of the extra constructions of the basement room under the portico and also the construction of south-west room mentioned above in his reply to suit their convenience. The plaintiff further submit that as the construction of aforesaid rooms are extra constructions the same have to be charged on basis of item wise billing along with 10% of overhead charges as per clause 11 of the agreement and the same cannot be calculated at Rs.1092/- which works to Rs.86,42,000/- and after the request of the defendant the said amount has been reduced to Rs.73,33,056/- in which the payment already were made by the defendants to the tune of Rs.25,25,000/- has been deducted and hence the defendants are liable to pay the plaintiff a total sum of Rs.56,50,000/-. The plaintiff has also sent a letter dated 01.02.2018 to the defendants stating the entire facts. The plaintiff has also claimed the interest @ 12% per annum for the default of payment through their rejoinder dated 28.08.2020. Hence, the plaintiff has come up with the present suit for the aforementioned relief.

3. By denying the plaint averments the defendants have filed the written statement. The sum and substance of the written statement averments which are found essential for the Disposal of the suit is that:-

a) It is the contention of the defendants that the suit is false and not maintainable both factually and legally. The defendants submit that the plaintiff and the defendant trust have entered into an agreement in writing dated 27.09.2016 wherein the rate of construction was fixed at Rs.1,092/- per sq. ft., The defendants denied that the defendant trust represented by one Mr. Mohan and Dr.Ramesh and the plaintiff firm represented by Dr.A.Sudhakar and Mr.J.Mallaravan (Project Engineer) have signed in the said agreement. The defendants denied the plaint averments in paragraph No.6 to 13 as alleged by the plaintiff. The defendants did not exert any pressure on the plaintiff to complete the building in a hurried manner and submit that the defendants had engaged the plaintiff only to put up a strong construction. The defendants wanted skilled labours with the assistance of qualified engineer for raising the quality construction for which the plaintiff assured the defendants and only because of that the agreement for construction was entered with the plaintiff. The defendants submit that the defendants required a modification in the size of portico and assured the plaintiff to pay for the additional work and the same has been accepted by the plaintiff and submit that the plaintiff has no locus standi to blame the defendants for the inferior quality of work done by them.

b) It is the contention of the defendants that even in the legal notice and plaint the plaintiff had failed deliberately to mention the area of square feet constructed by them. It is specifically admitted even in the legal notice and in the plaint that the rate was fixed at Rs. 1,092/- per square foot. No third party engineer or any other person is required for the calculation. The plaintiff is trying to protract the real issue by blaming the defendants with no reasons as he had put up a weak and poor, construction. The defendants further submit that the defendants in order to stabilize the roof concrete to some extent was constrained to spend a sum of Rs.8,00,000/-. Though the plaintiff assured to repay the same, he did not honour the same so far and apart from that the defendants was also constrained to spend a sum of Rs.84,88,450/- inclusive of the above mentioned amount. The entire amount spent by the defendants was listed out and handed to the plaintiff. The plaintiff assured to adjust and set-off, the same in his account. It is the submission of the defendants that the plaintiff have laid the roof concrete by engaging M/s.Ultra Ready Mix Concrete. When the cracks were found by the defendants and informed the plaintiff, the -plaintiff told the defendants that they will inform M/s.Ultra Ready Mix Concrete peoples and do the necessary and submit that M/s.Ultra Ready Mix Concrete, themselves told the plaintiff that in order to rectify the defects screed concrete will have to be laid and the the plaintiff assured the defendants to meet out the expenses for laying the screed concrete and also for the plastering to be done thereafter. The

defendants submit that the defendants so far paid a sum of Rs.1,36,62,000/- by way of cash and cheques on various dates. But the plaintiff have done the bad and worst construction and made the unlawful claim of Rs.56,50,000/-.

c) By denying the averments in plaint paragraph No.15 to 24 the defendants submit that in order to escape from the consequences the plaintiff hurriedly sent a letter dated 01.02.2018. In fact, the plaintiff is liable to repay the excess amount of Rs.76,46,506/- received from defendants. The suit is speculative, barred by limitation and unlawful. The defendants submit that the defendant suitably replied on 28.07.2020 for the suit notice dated 25.06.2020 and also replied to the rejoinder notice dated 28.08.2020. It is the contention of the defendants that mere reading of plaint in toto would establish that the defective construction was built by the plaintiff and such act had caused instability to the concrete roof, and entire building besides huge additional unwanted expenditure to the defendants along with much mental agony, torture and unwanted harassment and huge loss. The defendants submit that the cost of agreement as per the agreement is Rs.1,45,03,944/- wherein the value paid for materials and work Rs.84,88,450/- and the actual payment received by the plaintiff from the defendants as admitted by the plaintiff is Rs.1,36,62,000/- and so in total the calculation comes to Rs.2,21,50,450/- and the defendants submit that the plaintiff has received the excess amount of Rs.76,46,506/- which has to be returned by the plaintiff to the defendants.

d) Further, it is the contention of the defendants that the plaintiff did not come out with definite specifications, pertaining to the nature of work, extent of work, types of work, payment agreed and received by them with definite dates and submit that the plaintiff had deliberately failed and made a vague and unlawful claim. The defendants further submit that the plaintiff has failed to do the works and also failed to supply the items as stated in the paragraph No.23 of the written statement by the defendants. It is the submission of the defendants that plaintiff had caused immense hardship to the defendants and hence the defendant was constrained to spend a sum of Rs.84,88,450/-. The defendants submit that the land of the defendant is not in even level and to even the level of height it required construction of pillars upto basement level and filling the basement with gravel. The plaintiff instead of filling the basement with gravel, had left the space vacant, hallow and left the construction incomplete. The defendants submit that the plaintiff is liable to pay a sum of Rs.76,46,506/- and for the value of counterclaim the defendants undertakes to pay the Court Fee as and when ordered by the Court. The suit laid by the plaintiff is gross violation of commercial courts act they have not complied the Pre-Institution Mediation and the suit is an abuse of process of law. Hence, the defendants have sought for to dismiss the suit with exemplary costs and the decree the counter claim of the defendants for a sum of Rs.76,46,506/- with future interest at the rate of 12% per annum and costs.

4. At the stage of case management hearing and for framing of issues both parties appeared before this court through their counsel and filed the joint memo on 16.04.2025 to refer the suit for mediation by seeking recourse to settle the dispute. No oral and documentary evidence was adduced on both sides.

5. On behalf of the plaintiff partnership firm, one of the partner Mr.A.Sudhahar has entered into the compromise before the Mediation and in this regard the plaintiff has filed the Form A certificate issued by the Registrar of Firm. This Court would consider that the Form A filed by the plaintiff reflects that the plaintiff firm is a Registered Partnership Firm and also consider that the person representing plaintiff is also a registered partner of the plaintiff firm. Like wise on behalf of the defendant, Mr.R.Prakash has entered into the compromise before the mediation and in this regard the defendant has filed their letter dated 09.10.2025 along with their memo authorizing him to enter into the compromise on behalf of the defendant trust. This Court has carefully verified the Form A registration certificate of the plaintiff partnership firm and the letter issued by the defendant trust authorizing Mr.R.Prakash to enter into the compromise in the suit proceedings.

The Substance of the Mediation Settlement are as follows:-

6. The suit was referred to mediation and the parties agreed for mediation in the presence of Advocate Thiru.V.Victor, as mediator. On

10.10.2025 the parties with the assistance of the mediator voluntarily arrived with amicable settlement and entered into a settlement agreement dated 10.10.2025 along with Memorandum of Understanding dated 10.10.2025 in the presence of mediator / conciliator.

The terms of Settlement entered between the parties is as follows:-

7. The plaintiff and the defendants have entered into the settlement agreement dated 10.10.2025 with following terms of settlement in Memorandum of Understanding:-.

- Whereas the Hethaiamman Charitable Trust represented by trustee agree to pay sum of Rs.10,00,000/- [Rupees Ten Lakhs Only] to Dimensions a Partnership Firm represented by its Partner Dr. A. Sudhahar within 10 days from today. The Dimensions a Partnership Firm represented by its Partner Dr. A. Sudhahar agrees to sell this School “The Ooty Public School” with land and buildings and all related assets (list mentioned below) situated at Onnipalayam Pudur, Karamadai to 3rd parties for a sum of Rupees not less than 30 Crore, within a period of one year.

- If the period exceeds more than one year the sale prize may be more than 30 Crores (Thirty Crores Only) or according to the prevailing market price existing on the date of sale or payment.
- If the sale could not be executed with in the period of 3 years from today by “Dimensions” a Partnership Firm represented by its Partner Dr.A.Sudhahar as agreed above this agreement will come to an end, and this agreement becomes unenforceable and will not have any effect thereafter.
- In the event of successful sale as above said the Dimensions a Partnership Firm represented by its Partner Dr. A. Sudhahar will be entitled for a sum of Rs.40,00,000/- (Rupees Forty Lakhs Only) instead of commission amount. If no sale take place the Hethaiamman Charitable Trust need not pay the said amount of Rs.40,00,000/- [Rupees Forty Lakhs Only] and the Dimensions a Partnership Firm represented by its Partner Dr. A. Sudhahar shall not be eligible to claim any amount.

- Dimensions a Partnership Firm represented by its Partner Dr. A. Sudhahar agree to withdraw the case COS No. 59 of 2023 now pending before the Hon'ble Commercial Court, District Cadre, Coimbatore.
- Both the parties agreed for the above said terms and condition voluntary without any undue influence or coercion and sets their sign and seal here under.

LIST

- 1) Land and Building
- 2) Classroom assets - Furniture, boards, etc.,
- 3) School Buses - present as on date.
- 4) All approvals for buildings and School Permits,
- 5) All Services - EB, Water supply, Sanatory etc.,
- 6) Books and documents
- 7) All related NOC from the concerned departments to effect the sale.
- 8) Existing states quo of staffs and students.

8. From the settlement arrived between the parties as above this Court is of the considered view that, there is no other issue left to be decided in this suit. Hence this Court is of considered stand that the suit has to decreed as per the terms of settlement entered between the parties and the proceedings has to be closed.

9. In the result, the suit is decreed as per the terms of the Settlement agreement entered between the parties on 10.10.2025 in the mediation process. Thereby the Terms of Settlement and the Memorandum of Understanding dated 10.10.2025 shall form part of the decree. Since there is no other issues left to be decided in this suit, the proceeding in this suit is closed. The parties are directed to bear their own costs. The plaintiff is entitled for refund of Court fees as per rules.

Dictated to the Steno-Typist, directly computerized by him, Corrected and Pronounced by me, on the **17th Day of March, 2026.**

Judge,
Commercial Court,
(District Judge Cadre)
Coimbatore

List of witnesses examined on both sides: - Nil

List of documents marked on both sides:- Nil

Judge,
Commercial Court,
(District Judge Cadre)
Coimbatore