



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH 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. 778 OF 2025 (GM-RES)

C/W

WRIT PETITION NO. 34942 OF 2024 (GM-RES)

IN WP No. 778/2025

BETWEEN:

1. MRS. LALITHA RAMKUMAR,
W/O MR. C. B. RAMKUMAR.
AGED ABOUT 60 YEARS,
RESIDING AT SY. NO.79,
KODIHALLI VILLAGE,
MADHURE HOBLI,
HESARAGHATTA,
DODDABALLAPUR TALUK,
BANGALORE RURAL DISTRICT.
2. MR. C. B. RAMKUMAR,
S/O LATE I. B. MENON,
AGED ABOUT 60 YEARS,
RESIDING AT SY. NO.79,
KODIHALLI VILLAGE,
MADHURE HOBLI,
HESARAGHATTA,
DODDABALLAPUR TALUK
BANGALORE RURAL DISTRICT

...PETITIONERS

(BY SRI. K.R. KRISHNAMURTHY, ADVOCATE)





AND:

1. M/S. HIMALAYA PRIME ASSETS PVT., LTD.,
(FORMERLY NIRAAMAYA RETREATS
PRIVATE LIMITED)
(PREVIOUSLY KNOWN AS NIRAAMAYA
RETREATS KOVALAM PVT. LTD.)
REPRESENTED BY ITS CEO,
REGISTERED ADDRESS AT:
SURYA SAMUDRA CHOWWARA THOTTAM,
MULLUR PULINKUDI P.O.,
THIRUVANANTHAPURAM, KERALA - 695 521.
AND CORPORATE OFFICE AT NO.54,
RICHMOND ROAD, BANGALORE - 560 025.
2. JUPITER CAPITAL PRIVATE LIMITED,
REPRESENTED BY ITS C.E.O. MR. SUDHAKAR
GANDE, PREVIOUSLY AND PRESENTLY MR. HARI
VELUPILLAI HAVING ITS REGISTERED ADDRESS AT
PRESTIGE SIGMA, 5TH FLOOR,
NO. 3, VITTAL MALLYA ROAD,
MAHATMA GANDHI ROAD,
BANGALORE - 560 001.
ALSO AT
NO.54, RICHMOND ROAD,
BANGALORE - 560 025.
3. NATIVE RESORTS PRIVATE LIMITED,
REPRESENTED BY ITS DIRECTOR HAVING
ADDRESS AT SY. NO.79 KODIHALLI VILLAGE,
MADHURE HOBLI, HESARAGHATTA,
DODDABALLAPUR TALUK
BANGALORE RURAL DISTRICT.

...RESPONDENTS

(BY SRI. GANESH PRASAD B.S., ADVOCATE FOR R1,
SRI. ADITHYA R. CHAKRAGIRI, ADVOCATE FOR R2,
VIDE ORDER DATED 16.04.2025 SERVICE OF
NOTICE TO R3 IS HELD SUFFICIENT)



THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT OR DIRECTION OR ORDER, SETTING ASIDE THE ORDER/RULING DATED:06.01.2025 (AT ANNEXURE-A) PASSED BY THE LEARNED SOLE ARBITRATOR IN ARBITRATION CASE.513/2023 (ARISING OUT OF CMP No. 435 OF 2022 ON THE FILE OF HIGH COURT OF KARNATAKA) AND ETC.

IN WP NO. 34942/2024

BETWEEN:

1. MRS. LALITHA RAMKUMAR,
W/O MR. C. B. RAMKUMAR,
AGED 60 YEARS,
RESIDING AT SY. NO.79,
KODIHALLI VILLAGE,
MADHURE HOBLI,
HESARAGHATTA,
DODDABALLAPUR TALUK,
BANGALORE RURAL DISTRICT - 560 088.
2. MR. C.B. RAMKUMAR,
S/O LATE I. B. MENON,
AGED ABOUT 60 YEARS,
RESIDING AT SY. NO.79,
KODIHALLI VILLAGE,
MADHURE HOBLI,
HESARAGHATTA,
DODDABALLAPUR TALUK,
BANGALORE RURAL DISTRICT - 560 088.

...PETITIONERS

(BY SRI. K.R. KRISHNAMURTHY, ADVOCATE)

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(FORMERLY NIRAAMAYA RETREATS



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2. JUPITER CAPITAL PRIVATE LIMITED,
REPRESENTED BY ITS C.E.O. MR. SUDHAKAR GANDE,
PREVIOUSLY AND PRESENTLY MR. HARI VELUPILLAI
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HOBLI, HESARAGHATTA,
DODDABALLAPUR TALUK
BANGALORE RURAL DISTRICT.

...RESPONDENTS

(BY SRI. GANESH PRASAD B S., ADVOCATE FOR R1,
SRI. ADITHYA R. CHAKRAGIRI, ADVOCATE FOR R2,
R2 SERVED AND UNREPERESETNED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A
WRIT OF CERTIORARI OR ANY OTHER WRIT OR DIRECTION
OR ORDER, SETTING ASIDE THE ORDER/ RULING



DATED:06.12.2024 (AT ANNEXURE-A) PASSED BY THE LEARNED SOLE ARBITRATOR IN ARBITRATION CASE 513/2023 (ARISING OUT OF CMP No.435/2022) ON THE FILE OF HIGH COURT OF KARNATAKA) AND ETC.

THESE PETITIONS ARE COMING ON FOR PRELIMINARY HEARING ON 'B' GROUP, 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)

These two Writ Petitions are directed against the orders dated 08.04.2024 and 06.04.2025 passed by the Arbitral Tribunal in A.C No.513/2023 (CMP No.435/2022).

2. The parties are referred to as per their ranking before the Arbitral Tribunal.

3. The petitioners before the Tribunal are the petitioners in these petitions calling the aforesaid impugned orders in question.



4. This Court in W.P.No.2847/2025 disposed of on 08.04.2026 has taken a view that the Writ Court cannot exercise its power under Article 227 of the Constitution of India on the orders passed by the Arbitral Tribunal in the absence of any *ex-facie* perversity. The order passed in W.P.No.2847/2025 reads as under:

"ORAL ORDER"

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 seeking to stay all further proceedings before

¹ A & C Act, 1966



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*

² 'AT' for short



HC-KAR

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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.

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

³ 2025 SCC OnLine SC 22



Constitution of India. He referred to Paragraph No.14 of the Judgment to contend that interference is permissible under certain circumstances.

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**."*

5. In that view of the matter, in the absence of any perversity *ex-facie* on the order and because of the view taken



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in the above Writ Petition, we decline to interfere with the orders passed by the Arbitral Tribunal.

6. At this stage, learned counsel for the petitioner submits that in view of two different orders passed, the time limits for conclusion of proceedings would be different for each respondent 1 and 2 and in one case it would be one year and in another case it would be one and a half year, which is against the provision of the Arbitration and Conciliation Act, 1966. We decline to accept these arguments. However, the petitioners may raise these contentions as grounds in appropriate proceedings, in the event they chose to challenge the order of the Arbitral Tribunal, in accordance with the law.

7. With the above observations, the Writ Petitions are ***disposed of*** as not maintainable.

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

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

TKN
List No.: 1 Sl No.: 15 ct-vn