IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

MISCELLANEOUS FIRST APPEAL NO.752 OF 2026 (CPC)

BETWEEN:

MANISH KUMAR
AGED ABOUT 45 YEARS OLD,
RESIDING AT 94/4, 3RD MAIN,
3RD CROSS, NEAR GOVT. SCHOOL,
DODDANEKUNDI,
BENGALURU-560 037

HAVING PERMANENT ADDRESS AT:
62 A, POCKET C2,
MAYUR VIHAR PHASE III,
NEW DELHI-110 096.

...APPELLANT

(BY SRI DEEPAK BHASKAR, ADVOCATE)

AND:

1. ZOOMCAR INDIA PRIVATE LIMITED
THROUGH ITS DIRECTORS,
A COMPANY REGISTERED UNDER
THE COMPANIES ACT, 1956
HAVING REGISTERED OFFICE ADDRESS AT:
ANJANEYA TECHNO PARK, NO.147,
1ST FLOOR, HAL OLD AIRPORT ROAD,
ISRO COLONY, KODIHALLI,
BENGALURU-560 008.
REPRESENTED THROUGH ITS
AUTHORIZED SIGNATORY

ALSO AT:
UNIT NOS.701-717, 7TH FLOOR,
TOWER B, DIAMOND DISTRICT NO.150,

AIRPORT ROAD, KODIHALLI,
BENGALURU-560 008.

2. ZOOMCAR INC.,
THROUGH ITS DIRECTORS AND CHAIRMAN
A COMPANY INCORPORATED IN THE
UNITED STATES OF AMERICA,
HAVING ITS REGISTERED ADDRESS AT:
7^{TH} FLOOR, TOWER B,
DIAMOND DISTRICT NO.150,
AIRPORT ROAD, KODIHALLI,
BENGALURU-560 008.
REPRESENTED THROUGH CHAIRMAN
AND BOARD OF DIRECTOR.

3. INNOVATIVE INTERNATIONAL ACQUISITION CORP.
THROUGH ITS CHAIRMAN AND
CHIEF EXECUTIVE OFFICER 24681,
LA PLAZA STE 300, DANA POINT,
CALIFORNIA-92629,
UNITED STATES OF AMERICA.
REPRESENTED BY ITS CHAIRMAN AND CEO.

…RESPONDENTS

(BY SRI MANU P. KULKARNI, ADVOCATE FOR
SRI ARCHISHMAN CHAUDHURY, ADVOCATE FOR C/R-1)

THIS MFA IS FILED UNDER ORDER 43 RULE 1(r) OF CPC., AGAINST THE ORDER DATED 06.01.2026 PASSED ON I.A. IN O.S.NO.25283/2023 ON THE FILE OF THE 74^{TH} ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, MAYO HALL UNIT, C/C IV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-75), REJECTING THE I.A. FILED UNDER ORDER 39 RULE 10 READ WITH SECTION 151 OF CPC.

THIS APPEAL COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

This miscellaneous first appeal is directed against the order dated 06.01.2026 passed in O.S. No.25283/2023 on the file of the 74th Additional City Civil and Sessions Judge, Mayohall Unit, Bengaluru (CCH-75) ('Trial Court' for short), whereby the application filed by the appellant under Order XXXIX Rule 10 read with Section 151 CPC, 1908 seeking a direction to respondent No.1 to deposit the outstanding salary dues, came to be rejected.

Brief facts:

2. The appellant was employed in respondent No.1-company pursuant to an employment agreement dated 19.10.2015 and served as a senior managerial capacity. The appellant was first terminated on 09.08.2019, which termination was set aside by the Appellate Authority in CR No.1/2019-2020 under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ('POSH Act' for short), declaring the same as not just and proper. Despite

such finding, the respondent failed to reinstate the appellant and to pay the arrears of salary. Subsequently, the respondent issued communication relating to reinstatement. Later, second termination notice was issued on 06.01.2023. Aggrieved, the appellant instituted O.S. No.25283/2023 seeking *inter alia* monetary reliefs and protection of his rights, including those arising out of the vested Employee Stock Ownership Plan.

3. Pending the suit, the appellant filed an application under Order XXXIX Rule 10 CPC seeking a direction to deposit a sum of ₹2,99,29,040/- towards outstanding salary dues for the period from 01.08.2019 to 05.01.2023. The trial Court, by the impugned order, rejected the said application.

4. Learned counsel for the appellant contends that the impugned order is liable to be set aside on the following grounds:

i. The Trial Court has failed to consider the pleadings and documents, and has mechanically rejected the application without proper appreciation of the material placed before it.

ii. The respondent in its written statement and correspondence has admitted the material facts, including reinstatement and continuity of employment, which establish a *prima facie* liability.

iii. The finding that no *prima facie* case is contrary to the record, inasmuch as the appellant has demonstrated a clear cause of action and supporting documents evidencing entitlement to statutory dues.

iv. The trial Court has erroneously treated the application as *akin* to an injunction application and applied test of *prima facie* case and balance of convenience, instead of examining whether the respondent holds money due or payable to the appellant.

v. The Trial Court failed to exercise its inherent jurisdiction to execute the subject matter of the suit to prevent injustice, despite the nature of the claim involving substantial monetary dues.

vi. The finding that the application is premature is unsustainable, as the power under Order XXXIX Rule 10 can be exercised at any stage, where liability is discernible from the record.

vii. The trial Court has ignored the judicial precedents relied by the appellant, which recognize the power of the Court to direct deposit or furnish security, even at an interim stage, to balance equity and secure the ends of justice.

viii. The trial Court has accepted the respondent's evidence without proper scrutiny and has relied upon inapplicable precedents, thereby rendering the impugned order arbitrary and unsustainable.

5. *Per contra*, learned counsel for respondent No.1 would submit that the application filed under Order XXXIX Rule 10 CPC is wholly misconceived and not maintainable. It is contended that there is no admission whatsoever,

either express or implied, on part of the respondents regarding the alleged liability, which is a *sine qua non* for invoking the provisions of Order XXXIX Rule 10. In this regard, reliance has been placed on the written statement particularly paragraph Nos.8, 9 and 10, wherein the entitlement of the appellant to any monetary claim has been specifically denied.

6. It is further submitted that the appellant had earlier agitated similar claims in the proceedings arising out of the termination in Appeal bearing CR No.1/2019-2020, wherein the appellant had not been granted any relief in the nature of damages and therefore, the present claim is untenable and barred by principles analogous to finality of adjudication. The appellant is therefore not entitled to seek the same relief indirectly in the present proceedings.

7. It is contended that the present application, though styled under Order XXXIX Rule 10 CPC, is in

substance an attempt to secure a monetary claim *akin* to proceedings under Order XXXVIII Rule 5 CPC, without satisfying the necessary ingredients thereof. Such an application under the guise of Order XXXIX Rule 10 is impermissible in law. Further, it is submitted that the trial Court, upon due consideration of the pleadings and material on record, has rightly held that the claim is seriously disputed and no case is made out for directing deposit of any amount. The impugned order, therefore, does not suffer from any illegality or perversity warranting interference by this Court.

8. Having heard the learned counsel on both sides, the point that arises for consideration is:

> *"Whether the trial Court was justified in rejecting the application filed by the appellant under Order XXXIX Rule 10 read with 151 CPC seeking direction to deposit the outstanding amount?"*

9. At the outset, it is to be noted that the present appeal is directed against an interlocutory order. The

scope of interference in such matters is well settled. The Apex Court in the case of ***Wander Limited and another Vs. Antox India Pvt. Ltd.***[1] *(Wander Limited)* at paragraph No.14 has held as under:

> *"14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the*

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[1] 1990 (Supp) SCC 727

discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in Printers (Mysore) Private Ltd. v. Pothan Joseph: (SCR 721)

> *"... These principles are well established, but as has been observed by Viscount Simon in Charles Osenton & Co. v. Jhanaton '...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case'."*

The appellate judgment does not seem to defer to this principle."

10. The Apex Court has held that the Appellate Court could not ordinarily interfere with the discretion exercised by the trial Court unless such discretion is shown to be arbitrary, capricious or perverse, or where the Court has ignored the settled principles of law.

11. Keeping the aforesaid principle in mind, and on perusal of entire material on record, it is necessary to advert to the provisions under Order XXXIX Rule 10 CPC, which reads as under:

> "***10. Deposit of money, etc., in Court.–*** *Where the subject-matter of a suit is money or some other thing capable of delivery and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in Court or delivered to such last-named party, with or without security, subject to the further direction of the Court."*

12. The above provision is to the effect that where the subject matter of a suit is money or any other thing capable of delivery or where *any party admits* that such money or thing belongs to or is due to another party, the Court may order the same to be deposited or delivered. Thus, the *sine qua non* for an application under Order XXXIX Rule 10 CPC, is the existence of a clear and

unequivocal admission on the part of the defendant that the amount claimed is due and payable.

13. In the present case, the written statement filed by the defendant, particularly paragraph Nos.8, 9, and 10, reads as under and is culled out for ready reference:

> *"8. The Ld. Additional Labour Commissioner, by way of his reasoned order dated 18.04.2020, rejected the Plaintiff's claims for compensation by holding as follows:*
>
> > *"No orders as to the prayer of the Appellant seeking compensation".*
>
> *This order was challenged by the Defendant No.1 by way of W.P. No.7635/2020 wherein the Plaintiff chose to support the aforesaid order dated 18.04.2020 in its entirety before the Hon'ble High Court of Karnataka. A copy of the W.P.No.7635/2020 along with all documents produced therewith is produced herewith as* ***Document No.1****.*
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> *9. Admittedly, the Plaintiff has not challenged the said order dated 18.04.2020 or the findings with respect to his money claims against the*

Defendant No.1 till date, nor has he raised any counter claims against such order. Therefore, the rejection of the Plaintiff's claims, in so far as compensation is concerned, has attained finality and the same has already been accepted by the Plaintiff without demure. In view of the same, it is submitted that the Plaintiff ought not to be allowed to raise any claims for compensation in these present proceedings, after having accepted the Ld. Additional Labour Commissioner's order with respect to compensation and the same having attained finality with respect to the Plaintiff's compensatory claims, by operation of law.

10. The Plaintiff not having challenged the dated 18.04.2020, and having accepted the rejection of all his money claims before the Hon'ble High Court, ought not to be heard to raise the same money claims by way of a suit before this Hon'ble Court. It is submitted that the Plaintiff's suit is barred by res-judicata and is not maintainable and therefore, ought to be dismissed in limine."

(Emphasis supplied)

14. The above paragraphs clearly indicate that the respondents have specifically and categorically denied the entitlement of the plaintiff to any monetary claim and the

respondents also relied upon the order passed by the Additional Labour Commissioner dated 18.04.2020, wherein the claim for compensation was not granted and it was specifically recorded that no order was passed with respect to the claim for compensation. It is further evident from the pleadings that the said order dated 18.04.2020 was not challenged by the plaintiff, insofar as not granting the claim of compensation. In fact, the plaintiff supported the said order in the earlier proceedings.

15. Be that as it may, even independently of the above aspect, what is of significance is that there is no admission whatsoever by the respondents regarding the alleged liability. The stand taken in the written statement is one of a complete denial and therefore, foundational requirement for invoking the XXXIX Rule 10 is wholly absent.

16. Further, learned counsel for the respondent has placed reliance on the judgment of the Division Bench of

this Court in the case of ***M/s. Manipal Energy and Infratech Ltd., Vs. M/s. Sri Krishna Shelter Pvt. Ltd., and others***[2] *(M/s. Manipal Energy),* wherein while considering the scope of Order XXXIX Rule 10 CPC, it has been held that for attracting the said provision, there must be a clear admission by a party to the suit, that it holds money as a trustee for another party or that the money is due and payable to such party. In the absence of such admission, the Court cannot direct the deposit of the amount and the relevant portion of the said order, as stated at paragraph Nos.7 to 10, reads as under:

> *"7. It is relevant to extract the provisions of Order 39 Rule 10 of CPC.*
>
>> *"10. Deposit of money, etc., in Court:- Where the subject-matter of a suit is money or some other thing capable of delivery and any party thereto admits that he holds such money or other thing as a trustee for another party , or that it belongs or is due to another party, the Court may order the same to be*

[2] Commercial Appeal No.21/2019 D.D. 31.10.2019

> *deposited in Court or delivered to such last-named party, with or without security, subject to the further direction of the Court."*

8. A bare reading of order 39 rule 10 of CPC would indicate that in order to attract the said provisions:

a) there has to be admission by a party to a suit that he holds the money as a trustee for another party or

b) there has to be an admission by a party to a suit that the money belongs or is due to another party.

9. The provisions also indicate that existence of either of the said admissions in writing by a party are a mandatory precondition/requirement for a direction to be issued against such a party. Therefore, we will have to ascertain whether there exists any such admission. According to the learned counsel for the appellant, the admission is in paragraph 10 of the written statement filed by defendant No.2 in the suit which is extracted as under:

> *"The 2nd Defendant submits that with respect to certain bills submitted to it by the*

1st Defendant, an amount of Rs.67,09,410/- (Rupees sixty seven lakhs nine thousand four hundred and ten only) has been release on 04.10.2019. After deductions of taxes, an amount of Rs.53,29,355/- (Rupees fifty three lakhs twenty nine thousand three hundred and fifty five only) has been paid request towards such payment is produced here to as Document No.7. This defendant cravesleave to produce any further documents in this regard. The 2nd defendant is acting in compliance with the Agreement. The plaintiff is attempting to paint this compliance of the 2nd Defendant as a collusive act between the 1st and 2nd Defendant, which is vehemently denied. The 2nd Defendant is not acting in collusion with and party. It is unnecessarily been dragged into disputes between the plaintiff and the 1st Defendant."

<u>10. A perusal of the averments contained in the written statement not only indicate that there is no admission whatsoever as contemplated under order 39 rule 10 CPC, but the alleged liability of the Defendant No.2 has been seriously denied and disputed by the defendant No.2. Under these circumstances, as rightly held by the Court below, the provisions contained in order 39 rule 10 CPC</u>

> *<u>are not attracted to the facts of the instant case.</u> As rightly held by the Court below, apart from the fact that there was no privity of contract between the plaintiff and defendant No.2, there was no admission whatsoever, much less an admission as contemplated under order 39 rule 10 CPC so as to make the defendant No.2 liable to deposit the money into the Court below as sought for by the plaintiff in I.A.No.3."*
>
> *(Emphasis Supplied)*

17. In the said decision, the Division Bench of this Court held that where the liability itself is disputed as contemplated under Order XXXIX Rule 10 CPC, no direction can be issued to deposit the amount.

18. The respondents have also relied upon the decision of ***K.P. Credit & Traders Private Limited Vs. Anurag Rungta***[3] *(K.P. Credit & Traders),* wherein the Calcutta High Court has reiterated that in the absence of a clear and unequivocable admission, the provisions of Order XXXIX Rule 10 CPC cannot be invoked to secure a disputed monetary claim.

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[3] 2025 SCC OnLine Cal 892

19. Similarly, reliance is placed on the judgment of the Andhra Pradesh High Court in the case of ***Patta Appalanarasamma Vs. The Principal Subordinate Judge, Visakhapatnam & Ors.***[4] *(Patta Appalanarasamma)*, wherein it has been held that the conditions precedent for exercise of power under Order XXXIX Rule 10 CPC are:

i. The suit must be one for money or for delivery of a thing capable of delivery and

ii. The party, against whom the order is sought, must admit that he holds such money or property as a trustee or the same is due to the other party.

20. It is further held therein that except under Rule 10, there is no independent power to direct deposit of money in a purely disputed claim and such power cannot be exercised to compel payment in the absence of admission. In light of the provision of Order XXXIX Rule 10

[4] 2000 (3) A.P.L.J. 418 (HC)

and the settled principle in the aforesaid decision, it is clear that the requirement of admission is not a mere formality, but a jurisdictional pre-condition.

21. In the present case, as already observed, the respondents have categorically denied the liability and there is no material on record which can be construed as an admission within the meaning of Order XXXIX Rule 10 CPC. If the relief sought by the plaintiff is granted in the present suit, it would amount to directing the defendants to pay the amount even before adjudication of the entitlement of the plaintiff, despite a clear and categorical denial by the respondent. Such discretion would in fact result in prejudging the issues involved in the suit, which is impermissible in law. Further, the application those filed under Order XXXIX Rule 10 CPC is in substance to secure a disputed monetary claim, which cannot be granted in the absence of admission without satisfying the requirements of law. Therefore, this Court is of the considered view that the Trial Court has rightly appreciated the legal position

and justifiably rejected the application. The impugned order does not suffer from any illegality or perversity warranting interference and the point framed for consideration is answered and this Court pass the following:

ORDER

i. The miscellaneous first appeal is hereby ***dismissed***.

ii. The impugned order 06.01.2026 passed on I.A. in O.S. No.25283/2023 on the file of the 74th Additional City Civil and Sessions Judge, Mayohall Unit, Bengaluru (CCH-75) is hereby ***confirmed***.

Sd/-

JUSTICE K.S. HEMALEKHA

MBM
List No.: 1 Sl No.: 33