



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

WRIT PETITION NO. 12977 OF 2023 (GM-CPC)

BETWEEN:

SMT. UJJWALA SHENOY
W/O VIVEK B SHENOY
AGED 54 YEARS
R/AT VILLA NO.19
JATTI DWARAKAMI
ECC ROAD, WHITEFIELD
BENGALURU - 560 066
REPRESENTED BY POWER OF ATTORNEY
ANEESH VARGHESE
S/O P K VARUGHESE
AGED ABOUT 48 YEARS
R/AT VILLA NO.4
JATTIDWARAKAMNI
ECC ROAD, WHITEFIELD
BENGALURU - 560 066.

...PETITIONER

(BY SRI ADITYA VENUGOPALAN, ADV., FOR
SRI T.N. VISWANATHA, ADV.)

AND:

1. D.B. JATTI
S/O LATE DR. D.B. JATTI
AGED ABOUT 75 YEARS
R/AT VILLA NO.7
JATTIDWARAKAMAI
ECC ROAD, WHITEFIELD
BENGALURU - 560 066.
2. JATTI ENGINEERING INDIA PRIVATE LTD
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT 1956
HAVING ITS REGISTERED OFFICE



AT SY NO.51, PATTANDUR AGRAHARA
VILLAGE, BEHIND LOURDS CHURCH
OUTER CIRCLE, WHITEFIELD
BENGALURU - 560 066
REPRESENTED BY ITS MANAGING DIRECTOR
MRS. LAKSHMI D JATTI.

...RESPONDENTS

(BY SRI NISCHAL DEV B.R, ADV., FOR R-1 & R-2)

THIS WP IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS OF THE LEARNED XTH ADDL. DIST AND SESSIONS JUDGE (COMMERCIAL COURT), BENGALURU IN COMM.EX.NO.166 OF 2022 AND SET ASIDE ANNEXURE-G ORDER DTD 27/01/2023 PASSED BY THE LEARNED XTH ADDL. DIST AND SESSIONS JUDGE (COMMERCIAL COURT) BENGALURU IN I.A. NO. III IN COMM. EX.NO. 166 OF 2022

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

1. The judgment debtor is before this Court in this writ petition filed under Article 227 of the Constitution of India seeking for the following reliefs:-

"i. Call for records of the Learned Xth Additional District and Sessions Judge (Commercial Court), Bengaluru in Comm. Ex. No.166 of 2022;

*ii. Set aside **Annexure-G** order dated 27.01.2023 passed by the learned Xth Additional District and Sessions Judge (Commercial Court), Bengaluru in I. A. No. III in Comm. Ex. No. 166 of 2022;*



*iii. Set aside **Annexure-G** order dated 27.01.2023 passed by the learned Xth Additional District and Sessions Judge (Commercial Court), Bengaluru in I. A. No. IV in Comm. Ex. No. 166 of 2022;*

*iv. Allow **Annexure- G** application of the Petitioner and keep the execution proceedings in Comm. Ex. No. 166 of 2022 until orders are passed in Com. A. P. No. 111 of 2021;*

v. to grant such other and incidental reliefs as this Hon'ble court may deem fit, just and necessary in the peculiar facts and circumstances of this case; and

vi. to allow this Commercial Application with costs to the Petitioner."

2. Heard the learned counsel for the parties.

3. Decree holders had filed Commercial Execution Case No.166/2022 before the Court of X Additional District Sessions Judge (Commercial Court), Bengaluru for executing the Award dated 22.03.2021 passed in AC No.187/2019. In the said proceedings, the judgment debtor had filed IA No.4 under Order XXI Rule 26 read with Section 151 of CPC with a prayer to stay the execution proceedings. The said application was



dismissed vide the order impugned. Being aggrieved by the same, judgment debtor is before this Court.

4. Order XXI Rule 26 of CPC reads as follows:-

"26. When Court may stay execution.- (1) *the Court to which a decree has been sent for execution shall, upon sufficient cause being shown, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay execution, or for any other order relating to the decree or execution which might have been made by such Court of first instance or Appellate Court if execution had been issued thereby, or if application for execution had been made thereto.*

(2) *Where the property or person of the judgment-debtor has been seized under an execution, the Court which issued the execution may order the restitution of such property or the discharge of such person pending the result of the application.*

(3) *Power to require security from, or impose conditions upon, judgment-debtor-Before making an order to stay execution, or for the restitution of*



property or the discharge of the judgment-debtor, the Court shall require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit."

5. In the case on hand, it is brought to the notice of this Court that as against the Award passed in AC No.187/2019, which is sought to be executed by the Decree Holders, the judgment debtor had filed Commercial Appeal No.111/2021 and the same was dismissed on merits on 20.09.2023. Assailing the order passed in Commercial Appeal No.111/2021, the judgment debtor has preferred a second appeal in Commercial Appeal No.456/2023 before this Court, which is pending consideration.

6. Learned counsel for the petitioner has fairly submitted that in Commercial Appeal No.456/2023 he has already filed an application seeking stay of the award passed in AC No.187/2019.

7. Rule 26 of Order XXI of CPC can be invoked in a case to enable the judgment debtor to file necessary application before the Appellate Court to stay the execution or for any other order relating to the decree or execution. In the case on hand, IA



No.4 was filed when the first appeal in Commercial Appeal No.111/2021 was pending consideration. As on this date, Commercial Appeal No.111/2021 has already been disposed off on merits and undisputedly, second appeal in Commercial Appeal No.456/2023 is pending consideration before this Court and in the said appeal, an application is already filed seeking stay of the Award passed in AC No.187/2019. Therefore, I do not find any merit in this petition. Accordingly, the petition is ***dismissed.***

**Sd/-
(S VISHWAJITH SHETTY)
JUDGE**