



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF APRIL, 2023

BEFORE

THE HON'BLE MR JUSTICE ASHOK S.KINAGI

REGULAR FIRST APPEAL NO. 1292 OF 2016 (DEC)

C/W

REGULAR FIRST APPEAL NO. 1291 OF 2016

IN RFA No.1292 OF 2016

BETWEEN:

METAL CLOSURES PVT. LTD.
A PRIVATE LIMITED COMPANY
INCORPORATED UNDER THE COMPANIES ACT
OF 1956,
HAVING ITS REGISTERED OFFICE AT NO 39/48
12 KM , KANAKAPURA ROAD
DODDAKALLASANDRA VILLAGE
BANGALORE SOUTH TALUK - 560062
REPRESENTED BY ITS MANAGING DIRECTOR
MR B PRASHANTH HEGDE
S/O V. RATHNAKAR HEGDE
AGED ABOUT 70 YEARS

...APPELLANT

(BY SRI. H.N.VASUDEVAN, ADVOCATE)

AND:

1. SMT. MUNIYAMMA
WIFE OF LATE ANJANAPPA,
AGED ABOUT 64 YEARS
2. SMT NAGAMMA
DAUGHTER OF LATE ANJANAPPA
AGED ABOUT 60 YEARS





3. SMT RATHNAMMA
DAUGHTER OF LATE ANJANNAPPA
AGED ABOUT 56 YEARS

4. SMT SUSHILAMMA
DAUGHTER OF LATE ANJANNAPPA
AGED ABOUT 53 YEARS

5. SRI SRINIVASA
SON OF LATE ANJANNAPPA
AGED ABOUT 50 YEARS

6. SRI VENKATESHA
SON OF LATE ANJANNAPPA
AGED ABOUT 48 YEARS

7. SMT LAKSHMI
DAUGHTER OF LATE ANJANNAPPA
AGED ABOUT 45 YEARS

8. SMT NETHRAVATHI
DAUGHTER OF LATE ANJANNAPPA
AGED ABOUT 35 YEARS

RESPONDENTS 1 TO 8 ARE
R/AT DODDAKALASANDRA VILLAGE
BANGALORE SOUTH TALUK – 560 062

9. SRI D M ANJANAPPA
S/O CHIKKAMUNISWAMAPPA,
AGED ABOUT 59 YEARS
MUNIREDDY COLONY,
BENNIGANAHALLI ,
OLD MADRAS ROAD,
BANGALORE – 560091

10. SRI M SRINIVASA
S/O CHIKKAMUNISWAMAPPA
AGED ABOUT 57 YEARS
6-A7/, HEGGANAHALLI CROSS
LAKSHMANAGAR, PEENYA 2ND STAGE
BANGALORE – 560091



11. SRI M RAMACHANDRA
S/O CHIKKAMUNISWAMAPPA
AGED ABOUT 56 YEARS
NO 123, BASAVESHWARANAGAR,
BANGALORE - 560 086
12. SRI M LAKSHMAN
S/O CHIKKASWAMAPPA
AGED ABOUT 54 YEARS
NO 330, KAVIRAJ INDUSTRIES,
PEENYA INDUSTRIAL ESTATE,
1ST STAGE
BANGALORE - 560058
13. SRI M GANESH
S/O CHIKKASWAMAPPA
AGED ABOUT 43 YEARS
NO 12, 1ST MAIN, MANI VILA GARDEN
KAMALANAGAR
BANGALORE - 560 079
14. SMT KAMAKSHAMMA
W/O SHIVALINGAMURTHY
MAJOR, BEHIND WOODLANDS HOTEL,
TUMKUR - 572 101
15. SMT PARVATHI
W/O SHANTHA KUMAR
MAJOR
MUNIKRISHNAPPA COMPOUND
KAMMAGONDANAHALLY
JALAHALLI WEST
BANGALORE - 560 015
16. SMT LAKSHMI DEVI
C/O D M RAJAPPA
MUNIRAMAREDDY COMPOUND,
BINNAGANAHALLY,
OLD MADRAS ROAD,
BANGALORE - 560 091



17. SRI SURYANARAYANA
MAJOR NO 1076,
NGO COLONY
KAMALANAGAR
BANGALORE – 560079

SRI. NAGARAJA SHETTY
SINCE DEAD BY LR'S
18. SRI. PADMAPRAKASH
S/O LAKSHMI NARASIMHA MURTHY
AGED ABOUT 55 YEARS
No. 572, 10TH CROSS, 7TH BLOCK
JAYANAGAR
BANGALORE – 41.
19. SRI C R SOTHOSH KUMAR
S/O C RAMASWAMY,
AGED ABOUT 40 YEARS
NO 93, NANDI ROAD,
BASAVANAGUDI
BANGALORE – 560004
20. C.R. ASWATHANARAYANA SHETTY
AGED ABOUT 77 YEARS
S/O LATE C.R. RAMASWAMY SHETTY
R/AT No.20/1, SANNIDHI ROAD
BASWANAGUDI, BENGALURU – 560 004
- 21 SMT SAKUNTHALAMMA
W/O LATE NAGARAJA SHETTY
MAJOR, NO 95, 5TH CROSS,
SURVEYOR STREET, BASAVANGUDI,
BANGALORE – 560004
22. SRI PARTHSARATHY
S/O LATE NAGARAJA SHETTY
MANOR NO 95, 5TH CROSS
SURVEYOR STREET
BASAVANAGUDI
BANGALORE – 560004



23. M/S TRIDENT AUTOMOBILES PVT. LTD.
A PRIVATE LIMITED COMPANY INCORPORATED
UNDER THE COMPANIES ACT,
HAVING ITS OFFICE NO 1,
LOWER PLACE ORCHARD, SANKEY ROAD
BANGALORE 560003
REPRESENTED BY ITS AUTHORIZED SECRETARY
SRI M BALACHANDRAN
AGED ABOUT 62 YEARS

...RESPONDENTS

(BY SRI. V B SHIVA KUMAR, ADVOCATE FOR R1, R3, R5, R6
SRI. C. M. NAGABHUSHAN, ADVOCATE FOR R2,R4, R7, R8
SRI. PRAKASH S. SURYAVANSHI, ADVOCATE FOR R10-R17
SMT. S. SUSHEELA, SR. COUNSEL FOR
SMT. IRTAAN NAZEER, ADVOCATE FOR R23
V/O DATED 24.03.2022 NOTICE TO R9, R18-R22 ARE D/W)

THIS RFA IS FILED UNDER SEC.96 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 30.06.2016 PASSED IN
O.S NO.6873/2009 ON THE FILE OF THE I ADDL. CITY CIVIL
AND SESSIONS JUDGE, BENGALURU (CCH NO.2), DISMISSING
THE SUIT FOR DECLARATION.

IN RFA No.1291 OF 2016
BETWEEN:

M/S LUVAC ENGINEERING CORPORATION
NOW KNOWN AS
METAL CLOSURES PVT. LTD.
A PRIVATE LIMITED COMPANY
INCORPORATED UNDER THE COMPANIES ACT 1956
HAVING ITS REGISTERED OFFICE AT
No.39/4B, 12KM.
KANAKAPURA ROAD
DODAKALLASANDRA VILLAGE
BANGALORE SOUTH TALUK - 560 062

REPRESENTED BY ITS MANAGING DIRECTOR
MR. B. PRASHANTH HEGDE,



S/O V. RATHANAKAR HEGDE
AGED ABOUT 70 YEARS

...APPELLANT

(BY SRI. H.N.VASUDEVAN, ADVOCATE)

AND:

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WIFE OF LATE ANJANAPPA,
AGED ABOUT 64 YEARS
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DAUGHTER OF LATE ANJANAPPA
AGED ABOUT 60 YEARS
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DAUGHTER OF LATE ANJANNAPPA
AGED ABOUT 45 YEARS
8. SMT NETHRAVATHI
DAUGHTER OF LATE ANJANNAPPA
AGED ABOUT 35 YEARS

RESPONDENTS 1 TO 8 ALL ARE
R/AT DODDAKALASANDRA VILLAGE
BANGALORE SOUTH TALUK - 560 062



9. SRI D M ANJANAPPA
S/O CHIKKAMUNISWAMAPPA,
AGED ABOUT 59 YEARS
MUNIREDDY COLONY,
BENNIGANAHALLI ,
OLD MADRAS ROAD,
BANGALORE – 560091

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AGED ABOUT 57 YEARS
6-A7/, HEGGANAHALLI CROSS
LAKSHMANAGAR,
PEENYA 2ND STAGE
BANGALORE – 560091

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S/O CHIKKAMUNISWAMAPPA
AGED ABOUT 56 YEARS
NO 123, BASAVESHWARANAGAR,
BANGALORE – 560 086

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NO 330, KAVIRAJ INDUSTRIES,
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1ST STAGE
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MAJOR BEHIND WOODLANDS HOTEL,
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W/O SHANTHA KUMAR
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MUNIKRISHNAPPA COMPOUND
KAMAGUNDANAHALLY
JALAHALLI WEST
BANGALORE - 560 015
16. SMT LAKSHMI DEVI
C/O D M RAJAPPA
MUNIRAMAREDDY COMPOUND,
BINNAGANAHALLY,
OLD MADRAS ROAD,
BANGALORE - 560 091
17. SRI SURYANARAYANA
MAJOR NO 1076,
NGO COLONY
KAMALANAGAR
BANGALORE - 560079
18. SRI C R SOTHOSH KUMAR
S/O C RAMASWAMY,
AGED ABOUT 40 YEARS
NO 93, NANDI ROAD,
BASAVANAGUDI
BANGALORE - 560004
19. TRANSPOSED AS PLAINTIFF No.1
M/S LAVAC ENGG/METAL CLOSURES
20. SRI. NAGARAJA SHETTY
SINCE DEAD BY LR'S

SMT SAKUNTHALAMMA
W/O LATE NAGARAJA SHETTY
MAJOR, NO 95, 5TH CROSS,
SURVEYOR STREET, BASAVANGUDI,
BANGALORE - 560004
21. SRI PARTHSARATHY
S/O LATE NAGARAJA SHETTY



MANOR NO 95, 5TH CROSS
SURVEYOR STREET
BASAVANAGUDI
BANGALORE – 560004

22. SRI. PADMAPRAKASH
S/O LAKSHMI NARASIMHA MURTHY
AGED ABOUT 55 YEARS
No.572, 10TH CROSS, 7TH BLOCK
JAYANAGARA
BANGALORE – 560 041.
23. M/S TRIDENT AUTOMOBILES PVT. LTD.
A PRIVATE LIMITED COMPANY INCORPORATED
UNDER THE COMPANIES ACT,
HAVING ITS OFFICE NO 1,
LOWER PLACE ORCHARD, SANKEY ROAD
BANGALORE 560003
REPRESENTED BY ITS AUTHORIZED SECRETARY
SRI M BALACHANDRAN
AGED ABOUT 62 YEARS
24. MRS. C.P. BHARATHI
W/O LATE C.R. PRABHAKAR
AGED ABOUT 59 YEARS
R/AT No.20, 1ST FLOOR
SANNIDI ROAD, BASAVANAGUDI
BANGALORE – 560 004.
25. SRI. C.P. GAURAV
S/O LATE C.R. PRABHAKAR
AGED ABOUT 31 YEARS
R/AT No.20, 1ST FLOOR
SANNIDI ROAD
BASAVANAGUDI
BANGALORE – 560 004
26. SRI. C.R. SATHYANARAYANA
S/O RAMASWAMY SHETTY
AGED ABUT 66 YEARS
R/AT No.20, 1ST FLOOR,
SANNIDI ROAD



BASAVANAGUDI
BANGALORE – 560 004.

...RESPONDENTS

(BY SRI. V B SHIVA KUMAR, ADVOCATE FOR R1 TO R8
SRI.CHANDRASHEKARAN, ADVOCATE FOR R10-R13, R17
SMT. S. SUSHEELA, SR. COUNSEL FOR
SMT. IRTANA NAZEER, ADVOCATE FOR R23
VIDE ORDER DATED 09.02.2022 NOTICE TO R9, R15, R18
TO R22 ARE H/S
R14, R16, R24 TO R26 SERVED)

THIS RFA IS FILED UNDER SEC.96 OF CPC., AGAINST
THE JUDGMENT AND DECREE DATED 30.06.2016 PASSED IN
O.S NO.8973/2006 ON THE FILE OF THE I ADDL. CITY CIVIL
AND SESSIONS JUDGE, BENGALURU (CCH NO.2), DISMISSING
THE SUIT FOR DECLARATION AND PERMANENT INJUNCTION.

THESE APPEALS COMING ON FOR ORDERS THIS DAY,
THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

On the last date of hearing, learned counsel for the
appellant sought for an adjournment on the ground that
he is going to address the arguments on the next date of
hearing. On the assurance of learned counsel for the
appellant, the matter was adjourned to today.

2. Today, learned counsel for the appellant submits
that he has filed a memo for retirement.



3. The said memo is not on record.

4. Learned counsel for the appellants seeks time, but Smt. S.Susheela, the learned Senior counsel for the respondents on instructions submits that the appellant is taking undue advantage of the interim order passed by this Court and the appellant has assaulted some of the respondents and criminal case is registered against the appellant. Hence, learned Senior counsel for the respondents also submits that the respondents filed an application for modification of the interim order. The said application is pending for consideration.

5. Learned Senior counsel appearing for respondent No.23 on instructions submits that this is the fourth round of litigation. It shows that the appellant is intending to protect the proceedings.

6. At the cost of repetition, as on the last date of hearing, learned counsel for the appellant promised to address the arguments, instead of addressing the



arguments he seeks for an adjournment. The appeals are of the year 2016. The appellant is not interested in prosecuting the appeals. The intention of the appellant is to keep the litigation alive and take undue advantage of the interim order. I do not find any grounds to adjourn the matter. Hence, the appeals are ***dismissed*** for non prosecution.

Sd/-
JUDGE

SKS