



IN THE HIGH COURT OF KARNATAKA AT DHARWAD
DATED THIS THE 24TH DAY OF MARCH, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAVI V.HOSMANI
CIVIL REVISION PETITION NO.100170 OF 2023

BETWEEN:

SRI RIYAZ AHAMAD
S/O KHAJASAB,
AGE. 40 YEARS, OCC. BUSINESS,
R/O. WARD NO.11,
NEAR FATHIMA SHADIMAHAL,
ISLAMPUR, GANGAVATHI-583227.

...PETITIONER

(BY SRI JS SHETTY, ADVOCATE)

AND:

CANARA BANK,
BRANCH GANGAVATHI A
BODY CORPORATE CONSTITUTED
AND FUNCTIONING UNDER THE BANKING COMPANIES
(ACQUISITION AND TRANSFER OF UNDER TAKINGS)
ACT, 1970 HAVING ITS HEAD OFFICE AT J.C. ROAD,
BANGALORE THROUGH ITS CHIEF MANAGER AND
G.P.A. HOLDER SHRI G. SHIVARAJU
S/O GANGADHARAPPA,
AGE. 51 YEARS, R/O. GANGAVATHI-583227.

...RESPONDENT

(BY SRI SURESH SHETTEMMAVAR, ADVOCATE)

THIS CIVIL REVISION PETITION IS FILED UNDER SECTION 115
OF THE CODE OF CIVIL PROCEDURE, PRAYING TO THE ORDER DATED
07.03.2023 PASSED IN OS NO.99/2020, BY THE SENIOR CIVIL JUDGE
AND JUDICIAL MAGISTRATE FIRST CLASS GANGAVATHI, MAY KINDLY
BE SET ASIDE BY ALLOWING THIS REVISION PETITION WITH COST
THROUGHOUT IN THE ENDS OF JUSTICE AND EQUITY.

THIS CRP COMING ON FOR ADMISSION, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI



ORAL ORDER

Challenging order dated 07.03.2023 passed by Senior Civil Judge and JMFC, Gangavati in OS no.99/2020 on maintainability of suit, this revision petition is filed.

2. Sri J.S.Shetty, learned counsel for petitioner submitted that revision petition was by defendant in OS no.99/2020 filed by respondent herein seeking for following reliefs:

- "1) *A preliminary decree against the defendant directing them to pay Rs.12,98,892/- to the plaintiff bank together with future interest at 16.55% per annum compounded monthly from date of suit to till realization of entire due amount with full costs of the suit within a specified period and if the defendant fails to make the payment of decretal amount within such period, than the plaintiff bank be set at liberty to go for a final decree against the defendant to sell the mortgaged property by way of public auction for realizing the due amount.*
- 2) *A personal decree be passed against the defendant for the recovery of Rs.12,98,892/- together with interest and cost of the suit.*



- 3) *A charge may also be created over the alignment balancing air compression unit which is hypothecated to the bank.*
- 4) *And any other relief to which this plaintiff is entitled to after considering the merits of the case may also be granted, for the ends of justice and equity."*

3. In said suit, defendant entered appearance and filed written statement. Though a specific issue regarding maintainability was not raised, trial Court *suo-motu* raised question of maintainability and on hearing parties passed impugned order holding suit before it maintainable. It was submitted, said finding was contrary to provisions of Commercial Courts Act, 2015 ('**Act**', for short) and therefore on ground that impugned order suffers from material irregularity, sought for allowing revision petition.

4. Elaborating same, it was submitted admittedly suit was for recovery of money to tune of ₹12,98,892/- with future interest. It was submitted second proviso to Section 3 (1A) of Act inserted by Amending Act no.28 of 2018 authorizes specification of pecuniary value of commercial dispute to be not



less than ₹3,00,000/-. As a consequence, all commercial disputes involving specified value of more than ₹3,00,000/- to be filed only before a Commercial Court. It was submitted that admittedly dispute between plaintiff and defendant was 'commercial dispute' as suit was filed by Bank for recovery of money. As per Section 12 (1A) of Act, valuation in suit for recovery of money would be value of money sought to be recovered. Inescapable consequence of same would be that subject matter of suit was more than ₹3,00,000/-. Consequently, finding of Civil Court that suit was maintainable before it would be contrary to law and as such, suffer from material irregularity calling for interference.

5. On other hand, Sri Suresh Shettemmanavar, learned counsel appearing for plaintiff – Bank opposed revision petition. It was submitted, admittedly issue of maintainability was not raised by defendant before Civil Court and therefore, same ought to be considered as waived. Therefore, impugned judgment would not call for interference. It was further submitted that plaintiff did not aver that dispute was a commercial dispute



invoking provisions of Commercial Courts Act. Therefore, impugned order was justified.

6. Heard learned counsel and perused impugned order.

7. Provisions of Section 2(1) (c) (i) of Act defines 'commercial dispute' as follows:

"(c) "commercial dispute" means a dispute arising out of-

(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;"

8. Section 2(1)(i) defines a specified value as follows:

"(i) "Specified Value", in relation to a commercial dispute, shall mean the value of the subject matter in respect of a suit as determined in accordance with section 12¹[which shall not be less than three lakh rupees] or such higher value, as may be notified by the Central Government."

9. Perusal of plaint averments would indicate that lending of money by plaintiff to defendant was for a commercial venture and suit was for recovery of unpaid amount. Therefore,



transaction between parties would squarely fall within ambit of commercial dispute under Section 2(1)(c)(i) of Act.

10. For manner of determination of specified value, Section 2(1)(i) refers to Section 12 of Act. Section 12(1)(a) of Act specifically states that in a suit for recovery, money sought to be recovered inclusive of interest, if any computed upto date of filing of suit would be specified value. Indisputably value claimed is ₹12,98,892/- is more than notified value. As such, suit before Civil Court would not be maintainable, in view of bar under Section 6 read with Section 21 of Act.

11. Hence, order impugned would be contrary to law. Therefore, following:

ORDER

- i. Revision petition is allowed.
- ii. Impugned order dated 07.03.2023 passed by Senior Civil Judge and JMFC, Gangavati in OS no.99/2020 on maintainability of suit before Civil Court, is set aside; said suit is held not maintainable before Civil Court.



- iii. Trial Court is directed to return plaint for being re-presented before jurisdictional Commercial Court and specifying time limit for same.
- iv. No order as to Costs.

Sd/-
(RAVI V.HOSMANI)
JUDGE

CLK
CT:VP
LIST NO.: 1 SL NO.: 51