HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

WRIT PETITION NO. 32411 OF 2025 (GM-CPC)

BETWEEN:

1. MR. ANWAR JAN
S/O. LATE ABDUL REHMAN
AGED ABOUT 67 YEARS
R/AT SOLADEVANAHALLI VILLAGE
HESARAGHATTA HOBLI
YELAHANKA TALUK
BENGALURU URBAN DISTRICT - 560 107.

...PETITIONER

(BY SRI H.C.SHIVARAMU, ADVOCATE FOR SRI DHRUVA KUMARA D. N., ADVOCATE)

AND:

1. M/S. SRI RAGHAVENDRA
ENTERPRISES
A REGISTERED PARTNERSHIP
FIRM HAVING ITS OFFICE AT:
11TH CROSS, NEAR GOVERNMENT GIRLS
SCHOOL, MALLESWARAM,
BENGALURU - 560 003.
REP. BY ITS PARTNER:
SRI L.S. PRABHAKAR.

2. M/S MYSORE STONEWARE
PIPES & POTTERIES LIMITED
A COMPANY REGD. UNDER
PROVISIONS OF COMPANY'S ACT
HAVING ITS REGD. OFFICE AT:
NO.452, 11TH CROSS
6TH MAIN, SADASHIVANAGAR
BENGALURU - 560 080.
REP. BY: MR. RAJIV H. RAMAHALLI

Digitally signed by GAVRIBIDANUR SUBRAMANYA GUPTA SREENATH
Location: HIGH COURT OF KARNATAKA

EXECUTIVE DIRECTOR.

…RESPONDENTS
(BY SRI THONTADHARYA R.K., ADVOCATE FOR SRI P.B.AJIT,
ADVOCATE FOR R1;
SRI MAHESH ARKALGUD, ADVOCATE FOR R2)

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 AND SET ASIDE THE IMPUGNED ORDER DATED 08.05.2025 IN I.A.NO.IV UNDER ORDER XXI RULE 97 TO 105 READ WITH SECTION 151 OF CPC IN COM.EX.PETITION NO.274/2025 PASSED BY THE HON'BLE COURT OF XI ADDITIONAL DISTRICT AND SESSIONS JUDGE, (DEDICATED COMMERCIAL COURT), BENGALURU RURAL DISTRICT AT BENGALURU AND CONSEQUENTLY ALLOW I.A.NO.IV UNDER ORDER XXI RULE 97 TO 105 READ WITH SECTION 151 OF CPC VIDE ANNEXURE - A ETC.

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

CORAM: HON'BLE MR. JUSTICE PRADEEP SINGH YERUR

ORAL ORDER

Heard Sri H.C.Shivaramu, learned counsel appearing on behalf of Sri Dhruva Kumara D.N. for petitioner Sri Thontadharya R.K., learned counsel appearing on

behalf of Sri P.B.Ajit for respondent No.1 and Sri Mahesh Arkalgud, learned counsel for respondent No.2.

2. Learned counsel for petitioner has filed a memo, which reads as under:

> *"The petitioner humbly prays before this Hon'ble Court to permit the petitioner to convert the above writ petition as Commercial Appeal as above writ petition was filed by oversight to avoid delay. It is also humbly prayed to permit the petitioner to file a second set immediately after conversion of the same as Commercial Appeal and interim order granted may be continued for a further period of 4 weeks till the process of conversion of writ petition into Commercial Appeal is completed or in the alternative, interim order may be continued till fresh application is filed for seeking interim order before the division bench in the interest of justice and equity."*

3. Learned counsel for petitioner submits that the stay granted by this Court may be extended for further and he may be permitted to convert this petition into a

Commercial Appeal or in the alternative, continue the interim order till fresh application is filed seeking an interim order before the Division Bench.

4. Learned counsel for respondents objects to the said extension of interim order by contending that the execution petition is at the initial stage, as the registration of the sale deed is yet to happen.

5. Learned counsel for respondents, relies on two Authorities of this Court, one of the Division Bench and one of the Single Bench, and submits that the writ petition would not be sustainable before this Court, as the remedy for the petitioner would lie elsewhere.

6. Having heard learned counsels for parties, this Court deems it appropriate to permit the learned counsel for petitioner to convert this petition into Commercial Appeal.

7. In view of the fact that execution petition is at the initial stage and no adverse orders are passed, there would be some breathing time for the petitioner to approach the Division Bench of this Court and agitate the matter seeking interim order, as it would not be open for this Court to extend the interim order when the petition itself would not be maintainable before this Court.

8. Learned counsel for petitioner shall comply with the necessary requirements of satisfaction of the commercial appeal pleadings before the Division Bench of this Court, as contemplated under Section 37 of the Commercial Courts Act, 2015. Since learned counsel for respondents submits that the execution petition is at the initial stage and this Court has no jurisdiction to entertain the present petition, it may not be appropriate for this Court to extend the interim order at this stage.

9. However, the petitioner would be at liberty to move the Commercial Appeal Court to seek any interim

order, if he is so advised. Therefore, learned counsel for petitioner is permitted to convert this petition into Commercial Appeal.

Accordingly, this petition is ***disposed off*** for statistical purposes.

Registry is directed to facilitate handing over the file immediately to permit the petitioner to move the appropriate Court for urgent interim relief.

Ordered accordingly.

Sd/-
(PRADEEP SINGH YERUR)
JUDGE

CPN
List No.: 1 Sl No.: 1