

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR JUSTICE R DEVDAS

CIVIL REVISION PETITION NO. 49 OF 2025

BETWEEN:

- 1 . SAMMAAN CAPITAL LIMITED
FORMERLY KNOWN AS INDIABULLS
HOUSING FINANCE LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956 HAVING ITS
REGISTERED OFFICE AT 5TH FLOOR,
BUILDING NO. 27, KG MARG, CONNAUGHT PLACE,
NEW DELHI, DELHI - 110001
AND ALSO HAVING AN OFFICE AT
PLOT NO. 87/6, GROUND MEZZANINE,
INDIABULLS HOUSE, RICHMOND TOWN,
BANGALORE - 560025
REP. BY AUTHORISED SIGNATORY
MRS. USHA M.
- 2 . SAMMAAN FINSERVE LIMITED
FORMERLY KNOWN AS INDIABULLS
COMMERCIAL CREDIT LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT
5TH FLOOR, BUILDING NO. 27, KG MARG,
CONNAUGHT PLACE, NEW DELHI, DELHI - 110001
REPRESENTED BY AUTHORISED SIGNATORY
MRS. USHA M.

...PETITIONERS

(BY SRI. PRABHULING K NAVADGI., SR. COUNSEL A/W
SRI. CHINTAN CHINNAPPA M., ADVOCATE)

AND

- 1 . MANTRI INFRASTRUCTURE PVT LTD

A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT C-5, RICH HOMES, NO. 5/1,
RICHMOND ROAD, BENGALURU 560025.

- 2 . MANTRI DEVELOPERS PVT. LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT C-5, RICH HOMES, NO. 5/1,
RICHMOND ROAD, BENGALURU 560025.
- 3 . SHORE DWELLINGS PVT. LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT C-5, RICH HOMES, NO. 5/1,
RICHMOND ROAD, BENGALURU 560025.
- 4 . AGARA TECHZONE PVT. LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT MANTRI HOUSE, NO. 41,
VITTAL MALLYA ROAD,
BENGALURU 560001.
- 5 . MINERVA INFRATECH PVT. LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT MANTRI HOUSE, NO. 41,
VITTAL MALLYA ROAD, BENGALURU 560001.
- 6 . MANTRI REAL STRUCTURES PVT. LTD.
FORMERLY KNOWN AS MANTRI
RESI STRUCTURES PVT.LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT MANTRI HOUSE, NO. 41,
VITTAL MALLYA ROAD, BENGALURU 560001.

- 7 . CASTLES VISTA PVT. LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT C-5,
RICH HOMES, NO. 5/1, RICHMOND ROAD,
BENGALURU 560025.
- 8 . PLAZA AGENCIES PVT. LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT MANTRI HOUSE, NO. 41,
VITTAL MALLYA ROAD,
BENGALURU 560001.
- 9 . SUSHIL MANTRI
AGED ABOUT 61 YEARS
HAVING OFFICE AT MANTRI HOUSE,
NO. 41, VITTAL MALLYA ROAD,
BENGALURU 560001.
- 10 . CATALYST TRUSTEESHIP LIMITED
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT GDA HOUSE, FIRST FLOOR,
PLOT NO. 85, S. NO. 94 AND 95,
BHUSARI COLONY (RIGHT) KOTHRUD,
PUNE 411038
- 11 . ERIDANI INFRASTRUCTURE PVT. LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT E-903,
TOWER E LOTUS HOMEZ, SECTOR 111,
PALAM VIHAR, HARYANA – 122017
- 12 . ASLEEK BUILDWELL PVT. LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT L-62/1,
L-BLOCK, SECOND FLOOR,
NEW DELHI 110001

13 . AUROKIRAN CAPITAL INVESTMENT
ADVISORS PVT. LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE
AT L-62/1, L-BLOCK, SECOND FLOOR,
NEW DELHI - 110001

14 . DEUTSCHE BANK AG
HAVING ITS REGISTERED OFFICE
AT DEUTSCHE BANK HOUSE,
HAZARIMAL SOMANI MARG, FORT,
MUMBAI 400001

15 . NILESH SABOO
SENIOR EXECUTIVE AT DEUTSCHE
BANK, HAVING ITS REGISTERED OFFICE
AT DEUTSCHE BANK HOUSE,
HAZARIMAL SOMANI MARG, FORT,
MUMBAI 400001

.....RESPONDENTS

(BY SRI.SHYAM SUNDAR M.S., SR. COUNSEL A/W
SRI. B.K.S. SANJAY., ADVOCATE FOR R1 TO R9)

THIS CRP IS FILED UNDER SEC.115 OF CPC AGAINST
THE ORDER DATED 25.11.2024 PASSED ON I.A.NO.8 IN
OS.NO.7166/2024 ON THE FILE OF THE IX ADDITIONAL CITY
CIVIL AND SESSIONS JUDGE, BANGALORE, DISMISSING THE
I.A.NO.8 FILED UNDER ORDER 7 RULE 10 (2) OF CPC, FOR
REJECTION OF PLAINT AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON
04.03.2025 AND COMING ON FOR PRONOUNCEMENT OF
ORDERS, THIS DAY, THIS COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE R DEVDAS

CAV ORDER

(PER: HON'BLE MR JUSTICE R DEVDAS)

This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure assailing the impugned order dated 25.11.2024, in O.S.No.7166/2024, whereby the application filed by the defendants under Order VII Rule 10 of the Code of Civil Procedure was rejected.

2. For the sake of convenience, the parties shall be referred to as per their ranking before the trial court.

3. Learned Senior Counsel Sri Prabhuling K. Navadgi, appearing for the defendants submitted that the plaintiff No.2 - Mantri Developers Pvt. Ltd., plaintiff No.1 - Mantri Infrastructure Pvt. Ltd., plaintiff No.3 - Shore Dwellings Pvt. Ltd., plaintiff No.4 - Mantri Techzone Pvt. Ltd., and plaintiff No.5 - Minerva Infratech Pvt. Ltd., have availed various loans from the defendants, who are non banking finance companies. On default, in repayment of the loans, defendant No.1 issued a detailed acceleration notice dated 25.03.2022 to plaintiff No.1 and thereafter

defendant No.1 invoked the pledge agreement by invocation notice dated 28.09.2024 and sought for transfer of the shares vide sale notice dated 28.09.2024. The 1st plaintiff filed a commercial suit in Com.O.S.No.1351/2024, before the Commercial Court, Bengaluru, seeking permanent injunction restraining the defendants from enforcing or acting upon the invocation notices dated 28.09.2024 and from undertaking any further proceedings related to the transfer or encumbrance of the pledged shares of plaintiffs No.1 and 2 herein. However, the plaintiffs therein filed a memo dated 01.10.2024 seeking to withdraw the suit as not pressed, while seeking liberty to file a fresh suit on the same cause of action. However, instead of filing a fresh suit before the commercial court, the plaintiffs filed a suit in O.S.No.7166/2024 before the City Civil Court, Bengaluru with similar prayers as was sought before the commercial court.

4. The defendants entered appearance in the suit before the City Civil Court and filed an interlocutory

application No.8/2024 under Order VII Rule 10 of the Code of Civil Procedure seeking a prayer to return the plaint to the plaintiffs on the ground that the City Civil Court lacked jurisdiction to hear the suit, since the subject matter of the suit was evidently a commercial dispute and therefore such a suit could be tried only by the Commercial Court. However, the learned City Civil Judge has passed the impugned order rejecting the application.

5. Learned Senior Counsel submitted that the learned City Civil Judge has accepted the contentions of the plaintiffs that the jurisdiction of the Commercial Court was not attracted, as notice has been issued by the defendants only to plaintiffs No.1 and 2 but the suit has been filed by nine (9) entities and therefore if some of the plaintiffs do not have a commercial transaction with the defendants, then such a suit is maintainable before the jurisdictional civil court. For that purpose, the trial court seems to have placed reliance on a decision of the Apex Court in the case of ***M/s. Jalan Trading Co. Pvt. Ltd., /vs./ Millenium Telecom Ltd., in Civil Appeal***

No.5860/2010 and another case in M/s.Kvalrner Cemintation India Ltd., /vs./ M/s.Achil Builders Pvt. Ltd., in Civil Appeal No.6074/2018. However, the learned Senior Counsel submits that on careful search, it is found that no such decision is rendered by the Hon'ble Apex Court. Learned Senior Counsel submits with circumspection that the learned judge seems to have cited a non-existent decision to back the impugned judgment.

6. Learned Senior Counsel would further submit that when the plaintiffs sought to withdraw the commercial suit, it was not stated that the suit is not maintainable before the Commercial Court. Liberty was not sought to approach the jurisdictional civil court. It is also submitted that in a catena of decisions, the Apex Court has held that the court, if on a meaningful, not formal reading of the plaint, finds that the averments are manifestly vexatious, and meritless, in the sence of not disclosing a clear right to sue, it should exercise its power under Order VI Rule 11 of CPC, taking care to see that the ground mentioned therein is fulfilled. And if by clever drafting the

plaintiff has created an illusion of a cause of action, nip it in the bud at the first hearing, by examining the party searchingly under Order X of CPC. It was held that an activist judge is the answer to irresponsible law suits.

7. Per contra, learned Senior Counsel Sri Shyam Sundar, appearing for the plaintiffs submitted, at the threshold that the two decisions cited in the impugned order did not come from the learned counsel for the plaintiffs. On the other hand, learned Senior Counsel sought to place reliance on a decision of the Calcutta High Court in ***Ladymoon Towers Pvt. Ltd., /vs./ Mahendra Investments Advisors Pvt. Ltd.,*** arising out of CS/99/2020 in I.A.No.GA/4/2021 dated 13.08.2021, to contend that there should be an unimpeachable commercial flavour to the transaction resulting in a dispute, if the suit is to be maintained before a Commercial Court. It was contended that in the plaint, the plaintiffs have clearly contended that the e-mail notices sent by the defendants are designed to surprise and catch the plaintiff offguard. It is contended that the

defendants are attempting to circumvent established legal procedure by issuing notices without adhering to due process of law.

8. However, when a pointed question was put to the learned Senior Counsel for the plaintiffs, as to why the commercial suit was withdrawn, without seeking liberty to approach the jurisdictional civil court, the learned Senior Counsel has no answer. The learned Senior Counsel however sought to support the impugned order, while contending that notices were admittedly issued only to plaintiffs No.1 and 2, but the suit has been filed at the hands of nine entities and there being no commercial transaction at the hands of the defendants with some of the plaintiffs, a regular suit before a civil court is maintainable.

9. In the considered opinion of this Court, the application filed by the defendants to return the plaint, should have been allowed, for more than one reason. Firstly, the plaintiffs who had earlier filed a Commercial Suit, did not seek leave of the Court while withdrawing the

same, to present the suit before the civil court. Secondly, the plaintiffs are admittedly aggrieved of the demand notices issued by the defendants and such demand notices were issued only to some of the plaintiffs. Therefore, only those plaintiffs to whom demand notices were issued are aggrieved and they are entitled to seek relief at the hands of the competent court. Such of the plaintiffs could not have included some other entities to whom the defendants had not issued notices, to seek redressal of their grievance. On the other hand, if the defendants herein had approached the court and if they had filed the suit against entities to whom demand notices were not issued, then, such of the entities, as defendants, could have raised such a plea, regarding maintainability of the suit. It is unacceptable that the entities who had earlier filed a Commercial Suit, would withdraw the suit, without liberty and thereafter filed a suit before the civil court impleading some other entities to whom admittedly notices were not issued by the defendants. This is an ingenious method adopted by the plaintiffs seeking to maintain a suit before a court which had no jurisdiction.

10. What is more disturbing is the fact that the learned judge of City Civil Court has cited two decisions which were never decided by the Apex Court or any other Court. The learned Senior Counsel appearing for the plaintiffs has clearly stated that such decisions were not cited by the learned counsel for the plaintiffs. This act on the part of the learned judge would require further probe and appropriate action in accordance with law.

11. Consequently, this Civil Revision Petition is **allowed**. The interlocutory application filed by the defendants under Order VII Rule 10 of the Code of Civil Procedure is allowed. However, having regard to the express provisions contained in Rule 10A of Order VII, the matter stands remitted to the learned 9th Addl. City Civil and Sessions Judge, Bengaluru, only to enable the plaintiffs to file an application in terms of clause(2) of Rule 10A of Order VII. For that purpose, the parties herein are directed to appear before the learned 9th Addl. City Civil and Sessions Judge, Bengaluru, on 02.04.2025, without further notice. If an application is accordingly filed by the

plaintiffs, the learned judge shall pass necessary orders in accordance with Rule 10A of Order VII. If no such application is filed by the plaintiffs on the said date, the plaint shall stand returned to the plaintiffs.

12. Copy of this order shall be placed before Hon'ble the Chief Justice, for further action against the learned judge.

Ordered accordingly.

**Sd/-
(R DEVDAS)
JUDGE**

KLY
CT: JL