



NC: 2026:KHC:18947
WP No. 33639 of 2024
C/W WP No. 33436 of 2024
WP No. 33636 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 33639 OF 2024 (GM-CPC)

C/W

WRIT PETITION NO. 33436 OF 2024 (GM-CPC)

WRIT PETITION NO. 33636 OF 2024 (GM-CPC)

IN WP No. 33639/2024

BETWEEN:

SHALIMAR INCENSE PVT LTD
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 2013
HAVING ITS REGISTERED OFFICE AT
SHALIMAR HOUSE, NO.32 AND 33
3RD CROSS, SRIRAMPURAM
BENGALURU 560 021
REP. BY ITS DIRECTOR
SRI. ALKESH VINOD SHAH
FORMERLY M/S VKS INCENSE PVT. LTD.

...PETITIONER

(BY SRI. VARUN S., ADVOCATE)

AND:

1. SRI NITIN KANJI SHAH HUF
REP. BY ITS KARTHA
SRI. NITIN KANJI SHAH
AGED ABOUT 54 YEARS
S/O LATE SRI. KANJI DEVSHI SHAH
R/AT NO.7, KUNAL, FIRST FLOOR
UPPER PINE LINE ROAD
KUMARA PARK WEST
BENGALURU 560 020.





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2. SHALIMAR AGARBATTI COMPANY
A PARTNERSHIP FIRM
HAVING OFFICE AT NO.32 AND 33
3RD CROSS, SRIRAMPURAM
BENGALURU 560 021.
SINCE DISSOLVED AND REP. BY ITS PARTNERS.

3. SRI. VINOD KANJI SHAH
AGED ABOUT 67 YEARS
S/O LATE KANJI SHAH
R/AT NO.7, KUNAL, GROUND FLOOR
UPPER PIPELINE ROAD, KUMARA PARK WEST
BENGALURU 560 020.

4. SRI. ALKESH SHAH
AGED ABOUT 40 YEARS
S/O SRI. VINOD SHAH
R/AT KALPAVRUKSH HOMES
NO.51, 1ST FLOOR, CHAKRAVARTHY IYENGAR
EXTENSION, SHESHADRIPURAM
BENGALURU 560 020.

...RESPONDENTS

(BY SRI.SWAROOP S., ADVOCATE FOR R1:
SRI. NIKIT BALA, ADVOCATE FOR C/R4
AND FOR R2 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING ISSUE A WRIT OF CERTIORARI SETTING ASIDE THE ORDER DATED: 19.10.2024 (ANNEXURE-D) PASSED BY THE LD. LXXXIII ADDL. CITY CIVIL AND SESSIONS JUDGE (COMMERCIAL COURT), BENGALURU (CCH-84) IN COM. OS.NO. 207/2021 WITH RESPECT TO DISMISSAL OF THE PETITIONERS APPLICATION FILED UNDER ORDER VII RULE 10 OF THE CPC , 1908 SEEKING RETURN OF PLAINT (IA NO. 9) VIDE ANNEXURE-B AND ETC.



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BETWEEN:

SHALIMAR INCENSE PVT LTD
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 2013
HAVING ITS REGISTERED OFFICE AT
SHALIMAR HOUSE, NO.32 AND 33
3RD CROSS, SRIRAMPURAM
BENGALURU 560 021
REP. BY ITS DIRECTOR
SRI. ALKESH VINOD SHAH
FORMERLY M/S VKS INCENSE PVT. LTD.

...PETITIONER

(BY SRI. VARUN S., ADVOCATE)

AND:

1. SMT KARINA SHAH
AGED ABOUT 31 YEARS
W/O SRI. TANUJ BATAVIA
R/AT NO.7, KUNAL, FIRST FLOOR
UPPER PINE LINE ROAD
KUMARA PARK WEST
BENGALURU 560 020.
2. SHALIMAR AGARBATTI COMPANY
A PARTNERSHIP FIRM HAVING OFFICE
AT NO.32 AND 33, 3RD CROSS
SRIRAMPURAM, BENGALURU 560 021.
SINCE DISSOLVED AND
REPRESENTED BY ITS PARTNERS.
3. SRI. VINOD KANJI SHAH
AGED ABOUT 67 YEARS
S/O LATE KANJI SHAH
R/AT NO.7, KUNAL, GROUND FLOOR
UPPER PIPELINE ROAD, KUMARA PARK WEST
BENGALURU 560 020.



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4. SRI. ALKESH SHAH
AGED ABOUT 40 YEARS
S/O SRI. VINOD SHAH
R/AT KALPAVRUKSH HOMES
NO.51, 1ST FLOOR
CHAKRAVARTHY IYENGAR EXTENSION
SHESHADRIPURAM
BENGALURU 560 020.

...RESPONDENTS

(BY SRI.SWAROOP S, ADVOCATE FOR R1:
SRI NIKIT BALA, ADVOCATE FOR R2 TO R4
VAKALATH FILED FOR R2 & R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI SETTING ASIDE THE ORDER DATED 19TH OCTOBER 2024 (ANNEXURE-D) PASSED BY THE LEARNED LXXXIII ADDL. CITY CIVIL AND SESSIONS JUDGE (COMMERCIAL COURT), BENGALURU (CCH-84) IN COM.O.S.NO.209/2021 WITH RESPECT TO DISMISSAL OF THE PETITIONERS APPLICATION FILED UNDER ORDER VII RULE 10 OF THE CODE OF CIVIL PROCEDURE, 1908 SEEKING RETURN OF PLAINT (I.A.NO.8) VIDE (ANNEXURE-B) AND ETC.

IN WP NO. 33636/2024

BETWEEN:

SHALIMAR INCENSE PVT LTD
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 2013
HAVING ITS REGISTERED OFFICE AT
SHALIMAR HOUSE, NO.32 AND 33
3RD CROSS, SRIRAMPURAM
BENGALURU 560 021



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REP. BY ITS DIRECTOR SRI. ALKESH SHAH
FORMELRY M/S VKS INCENSE PVT. LTD

...PETITIONER

(BY SRI. VARUN S.,ADVOCATE)

AND:

1. SMT SAVITHA NITHIN SHAH
AGED ABOUT 53 YEARS
W/O SRI. NITIN SHAH
R/AT NO.7, KUNAL, FIRST FLOOR
UPPER PINE LINE ROAD
KUMARA PARK WEST
BENGALURU 560 020.
2. SHALIMAR AGARBATTI COMPANY
A PARTNERSHIP FIRM HAVING OFFICE
AT NO.32 AND 33, 3RD CROSS
SRIRAMPURAM, BENGALURU 560 021.
SINCE DISSOLVED AND
REPRESENTED BY ITS PARTNERS.
3. SRI. VINOD KANJI SHAH
AGED ABOUT 67 YEARS
S/O LATE KANJI SHAH
R/AT NO.7, KUNAL, GROUND FLOOR
UPPER PIPELINE ROAD, KUMARA PARK WEST
BENGALURU 560 020.
4. SRI. ALKESH SHAH
AGED ABOUT 40 YEARS
S/O SRI. VINOD SHAH
R/AT KALPAVRUKSH HOMES
NO.51, 1ST FLOOR
CHAKRAVARTHY IYENGAR EXTENSION
SHESHADRIPURAM
BENGALURU 560 020.

...RESPONDENTS

(BY SRI.SWAROOP S, ADVOCATE FOR R1
SRI NIKIT BALA, ADVOCATE FOR R2 TO R4)



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THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI AND SET ASIDE THE ORDER DATED: 19.10.2024 VIDE ANNEXURE-D PASSED BY THE LD. LXXXIII ADDL. CITY CIVIL AND SESSIONS JUDGE (COMMERCIAL COURT), BENGALURU (CCH-84) IN COM. OS.NO. 208/2021 WITH RESPECT TO DISMISSAL OF THE PETITIONERS APPLICATION FILED UNDER ORDER VII RULE 10 OF THE CPC , 1908 SEEKING RETURN OF PLAINT (IA NO. 8) VIDE ANNEXURE-B AND ETC.

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

CORAM: HON'BLE MR. JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

1. In these writ petitions, the petitioner-defendant No.4 has called in question the common order dated 19.10.2024 passed by the LXXXIII Additional City Civil and Sessions Judge, Commercial Court, Bangalore, (for short 'Commercial Court') on I.A.No.9, I.A.No.8 and I.A.No.8 filed by defendant No.4 under Order VII Rule 10 of CPC in Com.O.S.No.207/2021, Com.O.S.209/2021 and Com.O.S.No.208/2021 respectively, whereby the



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Commercial Court has rejected the said applications filed seeking for return of the plaints.

2. For the sake of convenience, the parties are referred to as per their ranking before the Commercial Court in Original Suit.

3. The plaintiff instituted respective suits before the Commercial Court for recovery of money. On service of summons, defendants appeared through their counsel and filed written statement. Defendant No.4 filed application under Order VII Rule 10 of CPC in the respective suits seeking for return of plaints on the ground that the disputes are not 'commercial disputes' under the Commercial Courts Act, 2015. The Commercial Court, after hearing the parties, by impugned order, has dismissed the said applications in respective suits. Aggrieved by the same, the petitioner-defendant No.4 is before this court.



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4. Learned counsel for the petitioner–defendant No.4 contended that, in terms of Section 2(1)(c) of the Commercial Courts Act, the disputes in question do not fall within the ambit of “commercial disputes,” as the transactions between the plaintiff and the defendants do not constitute ‘ordinary transactions of merchants’. It is therefore submitted that the Trial Court erred in dismissing the applications filed under Order VII Rule 10 of CPC.

5. Learned counsel for the respondent No.1–plaintiff submitted that the plaintiff is a merchant. However, it is contended that the transactions in question do not amount to “ordinary transactions” as contemplated under the Commercial Courts Act. It is further submitted that, in such circumstances, the plaintiff may be permitted to prosecute the respective suits before the appropriate civil court.

6. In view of the above, the following order is passed:



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ORDER

- a) The writ petitions are allowed.
- b) The order dated 19.10.2024 passed by the LXXXIII Additional City Civil and Sessions Judge, Commercial Court, Bangalore, on I.A.No.9, I.A.No.8 and I.A.No.8 filed by defendant No.4 under Order VII Rule 10 of CPC in Com.O.S.No.207/2021, Com.O.S.209/2021 and Com.O.S.No.208/2021 respectively, is set aside.
- c) The applications filed by the defendant No. 4 under Order VII Rule 10 of CPC in respective suits, are allowed.
- d) The Commercial Court is directed to return the plaint to the plaintiff to present the same before the appropriate court within 30 (thirty) days from the date of receipt of the certified copies of the plaint from the Commercial Court.



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- e) If such suits are filed, the Trial Court is directed to dispose of the same as expeditiously as possible.
- f) All the contentions of the parties are kept open.

Sd/-
(H.T. NARENDRA PRASAD)
JUDGE

DM
List No.: 1 Sl No.: 53