



CNR: KAHC010069612023

NC: 2026:KHC:40755
W.P. No.3069/2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 4TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.3069/2023 (GM-CPC)

BETWEEN:

M/S. ELECTRONICS AND CONTROLS POWER
SYSTEMS PVT LTD
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF THE COMPANIES ACT, 1956
AND HAVING ITS REGISTERED OFFICE AT
NO.29/A, 2ND PHASE, PEENYA INDUSTRIAL
AREA, BENGALURU-560068
REP. BY ITS AUTHORIZED SIGNATORY
AND DIRECTOR
SRI. SIVASANKARAN M.S.

...PETITIONER

(BY SRI. C.K. NANDAKUMAR, SR. COUNSEL FOR
SRI. SIVARAMA KRISHNAN AND
SRI. VINAY KUMAR, ADV.,)



AND:

1. M/S. WEP PERIPHERALS LIMITED
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956 AND
HAVING ITS REGISTERED OFFICE
AT 41/A1, BASAPPA COMPLEX
LAVELLE ROAD, BENGALURU-560001.
2. SMT. SUNDARI RAMACHANDRAN
CHAIRPERSON AND DIRECTOR
ELECTRONICS AND CONTROLS POWER
SYSTEMS PVT LTD



CNR: KAHC010069612023

NC: 2026:KHC:40755
W.P. No.3069/2023

R/AT. ORCHID VIEW APARTMENTS
B5, NO.19, RAMANAMAHARISHI ROAD
SADASHIVANAGAR
BENGALURU-560008.

3. SMT. VIDYA IYER
WHOLE TIME DIRECTOR
ELECTRONICS AND CONTROLS POWER
SYSTEMS PVT LTD
R/AT. ORCHID VIEW APARTMENTS
B5, NO.19, RAMANAMAHARISHI ROAD
SADASHIVANAGAR
BENGALURU-560080.
4. SRI. RAJARAM RAMAMURTHY
MANAGING DIRECTOR
WHOLE TIME DIRECTOR ELECTRONICS
AND CONTROLS POWER SYSTEMS PVT LTD
R/AT. ORCHID VIEW APARTMENTS
B5, NO.19, RAMANAMAHARISHI ROAD
SADASHIVANAGAR
BENGALURU-560080.
5. SRI. SIVASANKARAN M.S.
DIRECTOR
ELECTRONICS AND CONTROLS POWER
SYSTEMS PVT LTD
R/AT. NO.748-B, VINAYAKA NAGAR
KONENAGRAHARA, HAL
BENGALURU-560017.
6. SMT. UMA MAHESHWARI
DIRECTOR
ELECTRONICS AND CONTROLS POWER
SYSTEMS PVT LTD
R/AT. PLOT NO.72, SUBABH
DR. AMBEDKAR ROAD
PERIYAR NAGAR
EXTENTION, MADIPAKKAM
CHENNAI - 600091.



CNR: KAHC010069612023

NC: 2026:KHC:40755
W.P. No.3069/2023

7. SRI. K. RAMACHANDRAN
TF-2, RATAN APARTMENTS
NO.32, MUTHAPPA BLOCK
GANGANAGAR, BENGALURU-560032.
8. SRI. G.P. RAMACHANDRAN
CHARTERED ACCOUNTANT
M/S. G.P. RAMACHANDRAN AND
ASSOCIATES, CHARTERED ACCOUNTANTS
HAVING OFFICE AT NEW #9/OLD #1
COMMERCE HOUSE, SHOP #208
2ND FLOOR, CUNNINGHAM ROAD
VASANTH NAGAR
BENGALURU-560052.
9. ELECTRONICS AND CONTROLS PVT. LTD.
HAVING ITS OFFICE AT 9/21
KBR APARTMENTS
REGISTERED UNDER COMPANIES
ACT, 1956, KASTURBA NAGAR
ADYAR, CHENNAI-600058
REP. BY DIRECTOR.

...RESPONDENTS

(BY SRI. K.V. SATISH, ADV., FOR C/R1)

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THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH AND SET ASIDE THE IMPUGNED ORDER DATED 07/01/2023 (ANNEXURE-A) PASSED ON IA NO.20, BY THE LXXXII ADDL. CITY CIVIL AND SESSIONS JUDGE (COMMERCIAL COURTS DIVISION) (CCH-83) BENGALURU, IN COMM OS 8994/2011, CONSEQUENTIALLY ISSUED A WRIT MANDAMUS OR ANY OTHER WRITS, ORDERS, RULE(S) OR DIRECTION(S) DIRECTING THE LXXXII ADDL. CITY CIVIL AND SESSIONS JUDGE (COMMERCIAL COURTS DIVISION) (CCH-83) TO DISMISS THE SUIT BEARING COMM OS 8994/2011 BY DECLARING AND HOLDING THAT THE R-1 HEREIN CEASED TO HAVE ANY SUBSISTING RIGHT TO PURSUE THE PENDING LEGAL PROCEEDING AGAINST THE PETITIONER HEREIN ON



**NC: 2026:KHC:40755
W.P. No.3069/2023**

AND FROM 20/11/2012, THE DATE OF SANCTION OF THE SCHEME OF DEMERGER & ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON 29.07.2026, COMING ON FOR PRONOUNCEMENT OF ORDER, THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV ORDER

This writ petition is filed challenging the order dated 07.01.2023 passed by the LXXXII Additional City Civil and Sessions Judge, Bengaluru (for short 'the Trial Court') on I.A.No.XX in Comm.O.S.No.8994/2011.

2. Sri.C.K.Nandakumar, learned counsel for the petitioner submits that the respondent No.1 filed a suit for recovery of certain amounts with interest against the petitioner and other respondents and the petitioner herein is the defendant No.1 in the said suit. It is submitted that the suit was initially filed in the Civil Court and later it was transferred to the Commercial Court. In the said suit, the petitioner and another defendant filed an application under Order XIII-A read with Section 151 of the Code of Civil



Procedure, 1908, as amended under Section 16 of the Commercial Courts Act, 2015 (hereinafter referred to as 'amended CPC') seeking to pass a summary judgment in favour of the defendant No.1 by dismissing the said suit. The Commercial Court dismissed the said application which was challenged by the petitioner in W.P.No.4837/2022 and this Court vide order dated 25.03.2022 set aside the order and remanded the matter back to the Commercial Court to consider the application of the defendant No.1 in I.A.XX and after remand also, the same order is passed by the Commercial Court by rejecting the application. It is further submitted that after remand, the Commercial Court ought to have considered the application on merits however, the same was rejected on the ground that there is a prohibition to file an application under Order XIII-A of the amended CPC after framing of the issues and further observed that the amendment to CPC was brought in the year 2015 and the application was filed in the year 2021 and the said finding



is contrary to the material on record as the suit was transferred to the Commercial Court on 11.01.2019 and thereafter, the application was filed for summary judgment. It is also submitted that the Commercial Court at paragraph 11 of the impugned order has observed that it must follow certain steps. However, it has failed to adhere to the same.

3. It is contended that the Commercial Court passed an order on 01.09.2021 under Order XI Rule 4(7) of the amended CPC and certain documents were marked at the end of the said order. It was observed that both the advocates to find out points of dispute between the parties in view of admitted documents and whether the entire dispute can be resolved without recording further oral evidence by passing summary judgment as required under Order XIII-A of the amended CPC. However, now the impugned order is passed, summarily rejecting the application on the ground that issues are framed. It is



CNR: KAHC010069612023

further contended that the proviso to sub-Rule (2) of Order XIII-A of the amended CPC, is not mandatory but is directory. In support of his contentions, he placed reliance on the decision of the Delhi High Court in the case of ***K.R.IMPEX PUNJA Vs. PUNJA LOYD LTD.***¹ It is also contended that the defendant No.1 could not file the written statement before the Court and this is one of the opportunities for the defendant No.1 to put forth his stand and the same cannot be denied. Hence, he seeks to allow the petition.

4. *Per contra*, Sri.K.V.Sathish, learned counsel for the respondent No.1 supports the impugned order of the Commercial Court and submits that the consideration of the petitioner's application for summary judgment would not arise at this stage as the commercial suit has proceeded further, the parties have led the evidence, the cross-examination of the defendant-witness has been

¹ 2019 SCC Online Del 6667



conducted before the Court Commissioner and once the Court Commissioner submits his report along with the copies of the examination, the matter would be posted for final arguments. Hence, at this stage, the petitioner-defendant No.1 cannot insist to consider the application for summary judgment and the prayer of summary judgment has rendered infructuous due to passage of time. It is submitted that the present writ petition is filed in the month of February 2023 and the petitioners have taken number of adjournments in this proceeding and only now, they have moved a memo for posting showing urgency in the matter to avoid anticipated decree against them. It is further submitted that the defendant No.1 has not filed the written statement and the other defendants i.e. defendant Nos.2 to 5 who are the Directors of the petitioner-Company have filed the written statement, they have contested the suit on merits and there is no interim order in this writ petition. Hence, interfering with the order of



the Commercial Court may not be proper as it defeats the very object of enacting the Commercial Courts Act.

5. It is contended that the defendant No.3 in the suit had filed an application for amendment of written statement which was allowed and thereafter, the Commercial Court had framed an additional issue as to whether the defendant No.5 proves that due to demerger scheme sanctioned, the plaintiff has lost its right to continue the suit and on the very same ground, the petitioner-defendant No.1 is seeking to pass a summary judgment by dismissing the suit. Hence, he seeks to dismiss the petition.

6. I have heard the arguments of the learned Senior counsel for the petitioner, learned counsel appearing for the respondent No.1 and meticulously perused the material available on record. I have given my anxious consideration to the submissions advanced on both the sides.



NC: 2026:KHC:40755
W.P. No.3069/2023

CNR: KAHC010069612023

7. The respondent No.1 had filed a suit in Com.O.S.No.8994/2011 against the petitioner herein and the respondent Nos.2 to 9 for recovery of Rs.4,23,20,000/- with interest @ 24% p.a. from the date of this suit until the actual date of payment. The said suit came to be transferred by the City Civil Court, Bengaluru to the Commercial Court.

8. The petitioner who was the defendant No.1 in the said suit has not filed the written statement. The defendant No.1 filed an application under Order XIII-A of the amended CPC, seeking prayer to pass a summary judgment in favour of the defendant No.1-Company by dismissing the suit filed by the respondent No.1-plaintiff based on the documentary evidence filed by the applicant-defendant No.1. The Commercial Court considered the applications after hearing both the sides and passed an order dated 04.01.2022 by rejecting the applications filed by the petitioner. The petitioner assailed the said order



before this Court in W.P.No.4837/2022 and this Court, vide order dated 25.03.2022 by recording the submissions of both the sides that the impugned order may be set aside and the matter may be remanded back to the Commercial Court for fresh consideration, proceeded to allow the writ petition and the matter was remanded back. After remand, the Commercial Court heard the parties and passed the impugned order dated 07.01.2023, wherein the applications in I.A.Nos.XX and XXI filed by the defendant Nos.1 and 5 under Order XIII-A of the amended CPC were dismissed. The impugned order indicates the reasons for rejection of the application in I.A.No.XX which are that the defendant No.1 has filed the application on 09.09.2021 even though the defendant No.1 had knowledge about the documents and the fact assigned in the application indicates that the application was belated.

9. It is required to be noticed at the outset that the suit was initially filed as a civil suit before the City Civil



Court, Bengaluru, later it was transferred to the Commercial Court on 11.01.2019 and filing application though belated, however, the reasons of the Commercial Court that the CPC was amended w.e.f. 23.10.2015 and filing application by the defendant No.1 on 09.09.2021 may not be correct and they could not have filed the application until the suit is transferred to the Commercial Court. The Commercial Court also recorded the reason that Order XIII-A of the amended CPC prohibits the application for summary judgment after the Court has framed the issues. It is not in dispute that the issues are framed by the City Civil Court even before transfer to the Commercial Court. The Commercial Court, at paragraph 11 of the impugned order observed that since the case is transferred from the City Civil Court, the following stages are required to be followed. The stages referred are (a) inspection of document, (b) affidavit of admission and denial of documents by oath, (c) application for summary judgment under Order XIII-A Rule 2 of the amended CPC,



CNR: KAHC010069612023

NC: 2026:KHC:40755
W.P. No.3069/2023

(d) decision on summary judgment application, (e) to (g) xxxxxxxx. The Commercial Court had decided to follow the aforesaid procedure in the commercial suit. However, it has proceeded to reject the application for summary judgment on the ground that the issues are framed.

10. The decision of the Delhi High Court in the case of **K.R.IMPEX** referred *supra*, at paragraphs 27 and 28 reads as under:

"27. Though proviso to Rule 2 of Order XIII A unequivocally lays down that no application for summary judgment may be made after the Court has framed the issues, but it cannot be forgotten that Supreme Court in ITC Limited v. Debts Recovery Appellate Tribunal (1998) 2 SCC 70 has held that merely because issues have been framed, is no reason for the trial to be undertaken, if it is brought to the notice of the Court that the same is not necessary. The Courts have in innumerable judgments referred to in Dr. Zubair Ul Abidin v. Sameena Abidin @ Sameena Khan, (2014) 214 DLT 340 (DB) (SLP(C) No. 369/370 preferred whereagainst was dismissed on 16th January, 2015), Geodis Overseas Pvt. Ltd. v. Punjab National Bank, 2016 SCC OnLine Del 1037 as well as in A.N.



CNR: KAHC010069612023

Kaul v. Neerja Kaul, 2018 SCC OnLine Del 9597 held that the Court on each and every date of hearing has to ensure that no litigation which is deadwood remains pending on the roster of the Court at the cost of other deserving litigations and it is the duty of the Court to eliminate the deadwood on each and every stage. Rule 1 of newly added Chapter XA of the Delhi High Court (Original Side) Rules, 2018, introduced with effect from 1st November, 2018 also permits the Court to, of its own, pass summary judgment at the time of Case Management Hearing which can also be post framing of issues in the suit.

28. *The purpose of the proviso to Rule 2 of Order XIII A is to discourage filing of applications for summary judgment after issues have been framed, thereby delaying trial and to empower the Court to, if finding the same to be dilatory, dismiss the same in limine. The proviso to Rule 2 of Order XIII A, in my opinion, cannot be read mandatorily and to that extent is directory."*

11. In view of the aforesaid decision, it is clear that the proviso to Rule (2) of Order XIII-A of the amended CPC, is directory and not mandatory. It is required to be noticed that the Commercial Court passed an order dated



NC: 2026:KHC:40755
W.P. No.3069/2023

01.09.2021 under Order XI Rule 4(7) of the amended CPC, which is produced at Annexure-M wherein an observation is made that both the advocates are required to find out the points of dispute between the parties in view of marking of admitted documents and whether the entire dispute can be resolved without recording further oral evidence by passing summary judgment as required under Order XIII-A of the amended CPC. It is to be noticed that the Commercial Court has passed the impugned order on 07.01.2023 after remand by this Court in the aforesaid writ petition and the said order is assailed by the defendant No.1 in the present writ petition by filing the writ petition on 03.02.2023. The order sheet indicates that on 02.11.2023 this Court granted time to comply the office objections. On 06.01.2025, the matter was adjourned at the request of the petitioner. Again on 15.01.2025, the matter was adjourned. On 20.01.2025, at the request of the petitioner, the matter was adjourned. On 12.02.2025, the matter was adjourned at the request



of the petitioner. On 28.01.2025 and 12.02.2025, again the matter was adjourned at the request of the learned counsel for the petitioner. On 04.06.2026, the matter was adjourned at the request of the petitioner. On 06.07.2026, the matter was adjourned to next week. It is noticed that the petitioner has filed a memo for listing of the matter and on 29.07.2026, it was listed, heard and the matter is reserved for judgment.

12. It is also required to be noticed that there is no interim order in this petition. The material on record indicates that the plaintiff had led the evidence. During the pendency of this petition, the defendants have cross-examined the said witness, defendant Nos.2 to 5 have led the evidence, the defendant witness has been cross-examined by the plaintiff's counsel before the Commissioner and now the Commissioner has to submit the copies of the cross-examination of witness before the Commercial Court. Thereafter, the matter would be



posted for final arguments on merits of the case. It is also required to be noticed that in the meantime, the defendant No.3 had filed an application for amendment of the written statement which was allowed and thereafter, the Commercial Court framed the additional issue i.e. "Whether the defendant No.5 proves that due to demerger scheme sanctioned, the plaintiff has lost its right to continue the suit?".

13. The petitioner-defendant No.1 had filed an application seeking to pass summary judgment by dismissing the suit mainly on the ground that in view of demerger scheme sanctioned, the plaintiff cannot maintain the suit. The aforesaid events make it very clear that the petitioner's prayer for summary judgment renders infructuous in view of the fact that the parties to the suit have already led evidence and the matter is about to be posted for final arguments. There is no point in considering the petitioner's application for summary



judgment as in due course, the Commercial Court would pronounce the judgment on merits of the suit, including the contentions raised in the application filed by the petitioner for summary judgment. Considering the submissions of the petitioner, I am of the view that though the Commercial Court has not assigned detailed reasons while rejecting the application, the question of considering the application for summary judgment after the parties have adduced the evidence before the Commercial Court would not arise and if such a prayer is entertained, it would defeat the very purpose of the Commercial Courts Act i.e timely and efficient disposal of cases. Furthermore, the suit is of the year 2013 and is one of the oldest suits pending before the Commercial Court and the remand of the matter to re-consider the application for summary judgment, would again delay the proceedings. Hence, I am of the view that this Court is not inclined to exercise the supervisory jurisdiction under Article 227 of the Constitution of India though the impugned order is not a



CNR: KAHC010069612023

NC: 2026:KHC:40755
W.P. No.3069/2023

well-reasoned order as the Hon'ble Supreme Court in the case of **MOHD.YUNUS Vs. MOHD. MUSTAQIM AND OTHERS²**, clearly held that the scope of the supervisory powers of the High Court is limited to ensuring that the Trial Courts function within the limits of their authority and not act as a Court of appeal or review. Hence, I proceed to pass the following:

ORDER

- (i) The writ petition is devoid of merits and the same is hereby ***rejected***.
- (ii) The Commercial Court shall dispose of the suit on merits, as expeditiously as possible without any delay.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

RV
List No.: 1 Sl No.: 1

² (1983) 4 SCC 566