IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF OCTOBER , 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

COMMERCIAL APPEAL NO. 11 OF 2025

BETWEEN:

M/S PRIME TRACE TECHNOLOGIES PRIVATE LIMITED
A COMPANY INCORPORATED UNDER THE
COMPANIES ACT, 2013
HAVING ITS REGISTERED OFFICE AT
4TH FLOOR, RAM PLAZA, NO. 246,
HSR LAYOUT, SECTOR - 6, BANGALORE - 560 102
REPRESENTED BY ITS
DIRECTOR ABHISHEK KEJRIWAL
E-MAIL ID:abhishek@kutumbapp.com

...APPELLANT

(BY SRI.CHINTAN CHINNAPPA.M.,ADVOCATE AND
MR. N.VENKATESH KAMATH, ADVOCATE)

AND:

1. SWATANTRA VERMA
MAJOR BY AGE,
S/O RAM CHANDRA VERMA,
RESIDING AT 22 GAON, PIRPARI SAID PUR,
BALYA, JAGDISHPUR, AMBEDKAR NAGAR,
UTTAR PRADESH 224 190.
E-MAIL ID:swat.verma26@gmail.com

2. GOVERNANCE MATTERS
A WEBSITE / POLITICAL CONSULTING FIRM
HAVING OFFICE AT ITS REGISTERED
BOUGAINVILLEA RESTAURANT,
GROUND FLOOR,NEELYOG SQUARE MALL,
RB MEHTA MARG, GHATKOPAR,
EAST MUMBAI, MAHARASHTRA 400 077.

ALSO AT,
503, ESTATE, AMIT INDUSTRIAL
DR. SS RAO MARG, PAREL
EAST MUMBAI MAHARASHTRA - 400 012
E-MAIL ID:support@govmatters.in

ALSO AT,
123, MAKERS CHAMBER 6,
NARIMAN POINT,
MUMBAI- 400 021.
E-MAIL ID:admin@govmatters.in

…RESPONDENTS

(BY SRI. DHANUSH M.,ADVOCATE FOR R1;
SRI. RAGHURAM CADAMBI, ADVOCATE FOR C/R2
(CP NO.18851/24))

THIS COMAP / COMMERCIAL APPEAL UNDER SECTION 13 (1A) OF THE COMMERCIAL COURTS ACT, 2015 PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 14.10.2024 ON IA NOS 1 AND 2, IN COMMERCIAL OS NO.1031/2024 PASSED BY THE LXXXVIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (COMMERCIAL COURT)

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 08.09.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, ***HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN*** DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

The present Commercial Appeal under Section 13(1A) of the Commercial Courts Act, 2015, has been filed impugning the order on I.A.Nos.1 and 2 dated 14.10.2024 passed in Commercial O.S.No.1031/2024 by the LXXXVIII Additional City Civil & Sessions Judge, (Exclusive Commercial Court) Bengaluru City (CCH-89) ('**Commercial Court**' for brevity).

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

Facts of the Case:

3. The plaintiff–Primetrace Technologies Private Limited is engaged in developing online platforms and mobile applications, including "Crafto". The first defendant–Swatantra Verma was employed with the plaintiff as "Head–Business & Partnership" from February 2021 under the Employment Agreement dated 01.02.2021. According to the plaintiff, the first defendant, during the course of his employment, had access to its confidential and proprietary information and was bound by the terms of the agreement relating to confidentiality,

return of materials and intellectual property created during employment. The plaintiff states that during the subsistence of employment, the first defendant developed an application called "Political Poster", which was substantially similar to the political poster feature of "Crafto". The plaintiff further states that, when questioned, the first defendant admitted having developed the application and assured that it would be discontinued. According to the plaintiff, the application continued to be operated and, on account of the alleged breach of the Employment Agreement, the first defendant was terminated with effect from 31.07.2023 under Clause 10(c). A relieving letter dated 22.08.2023 was thereafter issued confirming that he stood relieved with effect from 31.07.2023. On 05.09.2023, the plaintiff states that its Director again called upon the first defendant to close the application, and that the first defendant assured that the same would be closed. Though the application was subsequently removed from the Google Play Store in November 2023, the plaintiff alleges that it continued to remain available on other platforms and that the first defendant continued to service existing clients.

4. The plaintiff thereafter came to know of another application, "Poster App – Political", described as Competing

Application No.2, which was released on the Google Play Store on 03.10.2023 in the name of Defendant No.2–Governance Matters India. The plaintiff alleges that Defendant No.1 had used Defendant No.2 as a front and that the second application followed the same idea and model as the plaintiff's application. According to the plaintiff, the two competing applications had substantial similarities in their template, layout, colour scheme, graphics, images, icons, fonts and poster contents, apart from similarities in the terms and conditions, privacy policy and EULA. The plaintiff specifically relies upon the privacy policy of the second application carrying the effective date 19.04.2023, though the application was released only on 03.10.2023, and the EULA containing the name of the earlier competing application. The plaintiff further states that the defendants were seeking investment to scale up the second application and therefore issued a legal notice dated 12.12.2023 calling upon Defendant No.1 to close the competing applications. On these allegations, the plaintiff instituted the suit seeking permanent and mandatory injunctions against both defendants and damages of approximately Rs.1,20,00,000/-, together with the revenue, profits and amounts allegedly generated from the competing applications.

5. Along with the plaint, the plaintiff filed two applications under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, seeking interim injunctions. The first application sought an *ex-parte* ad-interim injunction restraining Defendant No.1 from operating "Poster App–Political", "Political Poster" or any other application created or developed by him during the course of his employment with the plaintiff, or any application competing with or substantially similar in form, format and substance to "Crafto". The second application sought a similar injunction against Defendant No.2 restraining it from operating "Poster App–Political". Both applications were supported by affidavits of the plaintiff's authorized representative, who stated that he was conversant with the facts of the case and relied upon the averments in the plaint and the documents produced in support thereof.

Order of the Commercial Court:

6. On consideration of the averments made in the plaint, the documents produced in support of the claim and the submissions advanced on behalf of the plaintiff, the learned Commercial Court was pleased to grant an *ex-parte* ad-interim order of injunction on 11.03.2024, restraining the defendants from operating the applications 'Poster App–Political', 'Political

Poster' and/or any other application created or developed by Defendant No.1 during the course of his employment with the plaintiff, or which competed with or used the same or substantially similar form, format and substance as the plaintiff's proprietary application 'Crafto'.

Defence of Defendant No.1:

7. Defendant No.1, in his written statement, denies any breach of the Employment Agreement or misuse of the plaintiff's confidential information or intellectual property. His specific case is that "Political Poster" was developed with the knowledge and co-operation of the plaintiff's authorised representative, Mr.Abhishek Kejriwal, as a side project and outside the plaintiff's business, and that he was permitted to continue the same after leaving the plaintiff. He contends that he left the employment voluntarily in July 2023 and relies upon the 'No Objection Letter' dated 01.08.2023 and the relieving letter dated 22.08.2023, disputing the plaintiff's case that he was terminated for misconduct with effect from 31.07.2023. He further relies upon the communication dated 05.09.2023 and states that he was informed that he could continue to scale "Political Poster", though his stock options would be forfeited, and that he thereafter shut down the application. He denies any

connection with Defendant No.2 or any role in the development or release of "Poster App–Political" on 03.10.2023, denies that Defendant No.2 was used as his front and also denies that the competing application is a copy of "Crafto" or that he misused the plaintiff's customer data, marketing material, product information or revenue model.

8. Defendant No.1 has also raised objections regarding the maintainability of the suit. He contends that the plaintiff has not paid the requisite court fee on the claim for Rs.1,20,00,000/- damages and the further amounts claimed towards revenue and profits. He further contends that the post-employment restriction contained in Clause 7(C) of the Employment Agreement, particularly the restriction against engaging in a competing or similar business for twelve months, is hit by Section 27 of the Indian Contract Act, 1872. He also disputes enforcement of the Employment Agreement on the ground that it is unstamped. According to him, the prayers relating to the competing applications and intellectual property disclose a commercial dispute which ought to have been instituted before the Commercial Court. He has also relied upon the plaintiff's own statement that the present suit is confined to breach of the Employment Agreement, while reserving its right

to institute separate proceedings for intellectual property infringement, and on these grounds seeks dismissal of the suit.

Defence of Defendant No.2:

9. Defendant No.2–Governance Matters India denies any role in the alleged breach of the Employment Agreement and states that it is a separate political consulting firm and was not a party to the agreement between the plaintiff and Defendant No.1. It denies any association or collusion with Defendant No.1 and specifically denies that Defendant No.1 developed or operated "Poster App–Political" through it.

10. Defendant No.2 further contends that the plaintiff has not pleaded any specific act on its part of using or misappropriating the plaintiff's confidential information or intellectual property for developing the application, nor has it shown that Defendant No.2 derived any unlawful gain from such information. It therefore denies the claim for injunction and damages and puts the plaintiff to strict proof of the allegations. It has, in addition, raised the objection of misjoinder of parties, contending that the plaintiff itself has stated in paragraph 23 of the plaint that the present suit is confined to the alleged breach of the Employment Agreement by Defendant No.1 and that separate proceedings for

intellectual property infringement are reserved. Since Defendant No.2 was not a party to the Employment Agreement, it contends that no cause of action arising from that agreement is maintainable against it and that its mere association with the application cannot make it liable in the present suit. Defendant No.2 has accordingly contended that the suit is bad for misjoinder and has reserved its right to seek deletion of its name under Order I Rule 10(2) of the CPC.

Orders on preliminary issue:

11. On consideration of the pleadings and the contentions of the parties, the Court framed Issue No.6 as a preliminary issue, as to whether the dispute was a commercial dispute and whether the Court had pecuniary jurisdiction to entertain the suit. The Court noticed that the plaintiff alleged that Defendant No.1 had developed "Political Poster" during his employment and thereafter, through Defendant No.2, "Poster App–Political", both of which were alleged to be similar to "Crafto", and had sought injunctions and damages of Rs.1,20,00,000/-. Though the plaintiff contended that the suit was confined to breach of the Employment Agreement, the Court found that the pleadings also involved allegations relating to confidential information, intellectual property and competing

applications. Referring to Section 2(c) of the Commercial Courts Act, 2015 and the decision in ***Sterlite Technologies Limited v. Anupam Singh & Ors.***[1]**,** the Court held that the dispute was commercial in nature. Since the amount claimed was above Rs.3 lakhs, the Court held that it had no pecuniary jurisdiction and, by order dated 08.07.2024, returned the plaint under Order VII Rule 10 CPC with liberty to present it before the jurisdictional Commercial Court after necessary modifications, directing the parties to appear on 30.07.2024.

Order on applications before the commercial court:

12. Pursuant to the order dated 08.07.2024, the plaintiff presented the suit before the Commercial Court, which was numbered as Com. O.S. No.1031/2024, along with I.A. Nos.1 and 2. Defendant Nos.1 and 2 entered appearance and filed their respective written statements and memos adopting the same as their objections to I.A. Nos.1 and 2.

13. The Commercial Court, while considering I.A. Nos.1 and 2 filed under Order XXXIX Rules 1 and 2 read with Section 151 of CPC, noted the plaintiff's allegation that Defendant No.1, being its former employee, had misused the confidential

[1] 2022 SCC OnLine Del 2864

information, technology and material accessed during his employment and, in collusion with Defendant No.2, had developed competing applications similar to the plaintiff's application. The defendants denied the allegations and contended that the suit as well as the applications were not maintainable. On consideration of the pleadings, affidavits, objections and documents placed on record, the Court held that the material produced by the plaintiff was insufficient to establish a prima facie case and that the allegations of misuse of confidential information and technology required to be established by convincing evidence. The Court further held that the plaintiff had failed to establish that the balance of convenience was in its favour and also failed to show that refusal of injunction would cause irreparable injury, particularly when the alleged loss was capable of being assessed in monetary terms and damages had been claimed.

14. Accordingly, all the relevant points were answered in the negative and by order dated 14.10.2024, I.A. Nos.1 and 2 filed by the plaintiff came to be dismissed.

15. Aggrieved by the said order dismissing the applications for interim injunction, the plaintiff has preferred the present Commercial Appeal, seeking to set aside the order

passed by the Commercial Court and to grant the injunctions against defendant Nos.1 and 2 in terms of the reliefs sought in the applications.

Grounds in appeal:

16. The plaintiff in the said appeal has principally raised the ground contending that the Commercial Court failed to properly appreciate the material placed on record while dismissing I.A. Nos.1 and 2. According to the plaintiff, the Court failed to consider that defendant No.1 had received confidential and proprietary information during his employment under a binding Employment Agreement and that the applications sought to protect such information and the plaintiff's business from continuing misuse. It is further contended that the Court erred in holding that no *prima facie* case was made out, without properly considering the terms of the Employment Agreement, particularly the clauses relating to intellectual property and confidentiality, and the plaintiff's case that the competing applications were developed and operated in breach of those obligations. The plaintiff also contends that the Court wrongly treated the claim for damages as a reason for refusing injunction, whereas the relief of injunction was sought to prevent continuing loss of market share, goodwill and

confidential information. It is also urged that the negative covenants contained in the Employment Agreement were reasonable and intended to protect the plaintiff's confidential and proprietary interests and, therefore, the reliance on Section 27 of the Indian Contract Act was misplaced. The plaintiff further contends that the Commercial Court failed to appreciate that once confidential information is disclosed or misused, the injury cannot be adequately remedied merely by monetary compensation and that the balance of convenience was in favour of protecting the plaintiff's interests pending adjudication of the suit.

17. We have heard Sri.M.Chintan Chinnappa, learned counsel for the appellant/plaintiff as well as Sri.Dhanush M., learned counsel for respondent No.1/defendant No.1 and Sri.Raghuram Cadambi, learned counsel appearing for respondent No.2/defendant No.2 and perused the pleadings, the entire material placed on record and the order passed by the Commercial Court.

18. The question that arises for our consideration in this appeal is,

> *"Whether the order passed by the Commercial Court calls for interference by this Court?"*

Reasons and conclusion:

19. On a consideration of the pleadings, the affidavits filed in support of I.A. Nos.1 and 2 and the documents produced along with the plaint, this Court is of the view that the plaintiff had placed sufficient material to make out a *prima facie* case for protection. Defendant No.1 was employed with the plaintiff as Head–Business & Partnership from 01.02.2021 till 31.07.2023 and by virtue of his senior position, was admittedly in a position to have access to the plaintiff's customer-related data, marketing strategies, product material and revenue model. The Employment Agreement contained specific obligations relating to confidentiality, intellectual property and competition, including the obligation under Clause 7(C)(i) not to directly or indirectly compete with the plaintiff during the employment and for the stipulated period thereafter. During the subsistence of the employment, on 27.04.2023, defendant No.1 released "Political Poster". The plaintiff's specific case is that the application was substantially identical in form and substance to the political posters segment of "Crafto", which according to the plaint and affidavit constitutes about 30–35% of its revenue. The material further shows that the plaintiff confronted defendant No.1, and upon his assurance that the application would be taken down, did not immediately

take remedial action against defendant No.1. The subsequent release of "Poster App–Political" by defendant No.2 on 03.10.2023, within a short period after defendant No.1's employment came to an end, assumes significance. The plaintiff has also placed the terms, privacy policy and EULA of the two applications and has specifically pointed out that the template, layout and colour scheme, graphic elements, contents of posters and even the technical portions were substantially the same; the privacy policy of the second application bears the date 19.04.2023 and its EULA carried the name of the earlier "Political Poster" application. At this stage, these circumstances cannot be brushed aside as mere allegations requiring proof only at the conclusion of the suit.

20. The Commercial Court, in our considered view, did not give due weight to the contractual obligations and the particular nature of the material placed before it. The case of the plaintiff is not merely that the defendants are carrying on a similar business. The allegation is that a substantial part of the plaintiff's existing application and business model, which had been developed and operated by the plaintiff, was replicated by defendant No.1 while he was in its employment and that a substantially similar application thereafter came to be made

available through defendant No.2. The affidavit specifically states that defendant No.1 was closely involved in marketing, product development, customer expansion and sales and, therefore, had access to the plaintiff's proprietary information. The plaintiff has also relied upon the draft EULA recovered from the work folder of one of its employees, the screenshots and other documents to show the circumstances in which "Political Poster" was developed. The subsequent application released on 03.10.2023, and the similarities in its contents and technical material with the earlier application, therefore, provide a sufficient foundation for an interim order. The contention that damages have also been claimed cannot by itself be a ground to refuse injunction. The affidavit states that every day the competing applications remain in operation, the plaintiff suffers continuing business loss and injury to its goodwill and market position. Confidential information, once disclosed and put to commercial use, cannot in every case be adequately restored by a decree for money after trial. The balance of convenience, therefore, lies in preserving the subject matter of the suit and preventing further use or exploitation of the material which is alleged to have been obtained during the course of employment.

21. The objection based on Section 27 of the Indian Contract Act also cannot, at this interlocutory stage, be treated as an answer to the relief sought. The plaintiff is not seeking merely to prevent defendant No.1 from earning his livelihood or carrying on his profession; the immediate relief sought is against the continued operation of the applications which, according to the material on record, incorporate the very subject matter which is alleged to have been developed during the subsistence of the employment and in breach of the confidentiality and intellectual property obligations undertaken by defendant No.1. The plaintiff had earlier obtained an *ex parte* order on 11.03.2024 restraining the defendants from operating "Poster App–Political", "Political Poster" and other applications created or developed by defendant No.1 during his employment or competing with or substantially similar to "Crafto"; that order came to be vacated only on return of the plaint upon the question of jurisdiction and not after an adjudication on the merits of the allegations. The Commercial Court thereafter dismissed I.A.Nos.1 and 2 without, in the opinion of this Court, properly appreciating the cumulative effect of the Employment Agreement, the dates of development and release, the nature of the competing applications and the documents produced by the plaintiff. In these circumstances,

the plaintiff has made out a *prima facie* case, the balance of convenience is in its favour and refusal of protection would expose it to continuing injury, which may not satisfactorily be remedied at the end of the trial.

22. The impugned order passed by the Commercial Court dismissing the applications i.e., I.A.Nos.1 and 2 warrants our interference in the present appeal.

23. The Commercial Appeal is, accordingly, ***allowed.***

The impugned order dated 14.10.2024 passed in Commercial O.S.No.1031/2024 by the LXXXVIII Additional City Civil & Sessions Judge, (Exclusive Commercial Court) Bengaluru City (CCH-89), dismissing I.A. Nos.1 and 2 is hereby set aside.

The observations made by this Court while considering the interlocutory applications are confined only to the adjudication of the said applications and shall not in any manner influence or prejudice the Commercial Court while considering and deciding the suit on its merits. The Commercial Court shall decide the suit independently, uninfluenced by any of the observations made in this order.

Consequently, I.A.Nos.1/2015 and 2/2025 field before this Court are allowed. Respondent Nos.1 and 2, their representatives, agents, employees, servants and persons claiming through or under them are restrained, pending disposal of the suit, from operating "Poster App–Political", "Political Poster" or any application created or developed by Respondent No.1 during the course of his employment with the plaintiff and/or which competes with or is substantially similar in form, format and substance to the plaintiff's "Crafto" application.

The Commercial Court should dispose of the suit, as expeditiously as possible, without granting unnecessary adjournments, within a period of six months from the date of receipt of a certified copy of this order.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM