HC-KAR

NC: 2026:KHC:56711
WP No. 12650 of 2026
C/W WP No. 19383 of 2026

CNR: KAHC010273932026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION NO. 12650 OF 2026 (GM-CPC)

C/W

WRIT PETITION NO. 19383 OF 2026 (GM-CPC)

IN WP No. 12650/2026

BETWEEN:

1. H M ERANNA,
   S/O PANCHAKSHARAYA,
   AGED ABOUT 65 YEARS,
   R/A 'ANUSHREE', 8TH MAIN ROAD,
   MAHALAKSHMI NAGAR
   B.H. ROAD, TUMKUR 572 103

...PETITIONER

(BY SRI S. SRIRANGA LEARNED SENIOR COUNSEL FOR
SRI NARASIMHAN S., ADVOCATE)

AND:

1. B N KARUNAKAR
   S/O B S NIRANJAN
   AGED ABOUT 68 YEARS,
   R/A VASUNDARA
   AGRICULTURAL DEPARTMENT ROAD
   S.S. PURAM, TUMUKURU 572102

...RESPONDENT

(VIDE ORDER DATED 11.08.2026 NOTICE TO
RESPONDENT IS DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER ON I.A. NO.2 DATED 25.02.2026 PASSED BY THE HON'BLE I ADDITIONAL DISTRICT AND SESSIONS JUDGE AT TUMAKURU AT ANNEXURE-B AND ETC.

IN WP NO. 19383/2026

BETWEEN:

1. H. M ERANNA
S/O PANCHAKSHARAYA,
AGED ABOUT 65 YEARS,
R/A ANUSHREE, 8TH MAIN ROAD,
MAHALAKSHMI NAGAR,
B.H. ROAD, TUMKUR - 572 103

...PETITIONER

(BY SRI S. SRIRANGA, SENIOR COUNSEL FOR
SRI NARASIMHAN S., ADVOCATE)

AND:

1. B. N KARUNAKAR
S/O. B.S NIRANJAN,
AGED ABOUT 68 YEARS,
R/A VASUNDARA
AGRICULTURAL DEPARTMENT ROAD,
S.S PURAM, TUMUKURU - 572 102

...RESPONDENT

(VIDE ORDER DATED 11.08.2026 NOTICE TO
RESPONDENT IS DISPENSED WITH)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 15.09.2025 PASSED BY THE HON'BLE I ADDITIONAL DISTRICT AND SESSIONS JUDGE AT TUMAKURU AT ANNEXURE A ETC.

HC-KAR

CNR: KAHC010273932026

NC: 2026:KHC:56711
WP No. 12650 of 2026
C/W WP No. 19383 of 2026

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

CORAM: HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL ORDER

Since both petitions arise out of the orders passed in Com. O.S. No.55/2025, they are heard together and disposed of by this common order.

2. W.P. No. 19383/2026 is filed challenging the order dated 15.09.2025 passed in Com. O.S. No. 55/2025, whereby the application filed under Section 12-A of the Commercial Courts Act, 2015 (for short, "the Act") was rejected and the suit itself was also dismissed.

3. Learned Senior Counsel appearing for the petitioner submits that Section 12-A of the Act mandates pre-institution mediation before institution of a suit under the Act. However, it is submitted that an exception is carved out in cases where the suit contemplates urgent interim relief. It is contended that, in the application filed under Section 12-A of the Act, the petitioner had pleaded the urgency warranting consideration of interim relief by the Commercial Court. The urgency pleaded

was that the defendant was attempting to alienate the immovable properties and create third-party rights therein with a view to defeating the claim in the suit. In that regard, an application under Order XXXVIII Rule 5 of the CPC seeking attachment of the properties was also filed.

3.1 Placing reliance on the judgment of the Hon'ble Supreme Court in ***M/s. Dhanbad Fuels Private Limited v. Union of India and Another***, ***2025 INSC 696***, learned Senior Counsel submits that the mandate under Section 12-A of the Act is mandatory in nature, subject to the exception carved out in respect of suits contemplating urgent interim relief. It is further submitted that even if the Court declines to grant the urgent interim relief sought, the suit cannot be rejected for non-compliance with Section 12-A of the Act. Learned Senior Counsel contends that the relevant consideration is whether the prayer for urgent interim relief is bona fide and not whether such relief is ultimately granted.

3.2 It is further submitted that the Commercial Court proceeded on the premise that the requirement of pre-institution mediation continues to apply even where the suit

contemplates urgent interim relief and that, for non-compliance with the said requirement, the suit is liable to be rejected.

4. In view of the fact that the suit was rejected *suo motu* by the Court even before issuance of notice to the respondent, the petitioner sought dispensation of notice to the respondent. Accordingly, this Court, by order dated 11.08.2026, dispensed with the issuance of notice.

5. Heard the submissions of learned Senior Counsel appearing for the petitioner and perused the impugned order.

6. The short issue that arises for consideration is as follows:

> ***Whether the Commercial Court was justified in rejecting the application under Section 12-A of the Act and, consequently, the suit itself?***

7. The Commercial Court arrived at the aforesaid conclusion by placing reliance on the judgment of the Hon'ble Supreme Court in ***M/s. Dhanbad Fuels Private Limited*** (supra). The Hon'ble Supreme Court, upon an elaborate consideration of the earlier precedents, summarised its conclusions as follows:

"62. *In light of the aforesaid discussion, we summarise our findings as under:*

a. The decision of this Court in ***Patil Automation*** *(supra) lays down the correct position of law as regards Section 12A of the 2015 Act by holding it to be mandatory in nature.*

b. As held in paragraph 104 of the decision in ***Patil Automation*** *(supra), the declaration of the mandatory nature of Section 12A of the 2015 Act relates back to the date of the Amending Act.*

c. As held in paragraph 113.1 of the decision in ***Patil Automation*** *(supra), any suit which is instituted under the 2015 Act without complying with Section 12A is liable to be rejected under Order VII Rule 11. However, this declaration applies prospectively to suits instituted on or after 20.08.2022.*

d. A suit which contemplates an urgent interim relief may be filed under the 2015 Act without first resorting to mediation as prescribed under Section 12A of the 2015 Act.

e. Unlike Section 80(2) of the CPC, leave of the court is not required to be obtained before filing a suit without complying with Section 12A of the 2015 Act.

f. The test for "urgent interim relief" is if on an examination of the nature and the subject-matter of

the suit and the cause of action, the prayer of urgent interim relief by the plaintiff could be said to be contemplable when the matter is seen from the standpoint of the plaintiff.

g. Courts must also be wary of the fact that the urgent interim relief must not be merely an unfounded excuse by the plaintiff to bypass the mandatory requirement of Section 12A of the 2015 Act.

h. Even if the urgent interim relief ultimately comes to be denied, the suit of the plaintiff may be proceeded with without compliance with Section 12A if the test for "urgent interim relief" is satisfied notwithstanding the actual outcome on merits.

i. Suits instituted without complying with Section 12A of the 2015 Act prior to 20.08.2022 cannot be rejected under Order VII Rule 11 on the ground of non-compliance with Section 12A unless they fall within the exceptions stipulated in paragraph 113.2 and 113.3 of the decision in ***Patil Automation*** *(supra).*

j. In suits instituted without complying with Section 12A of the 2015 Act prior to 20.08.2022 which are pending adjudication before the trial court, the court shall keep the suit in abeyance and refer the parties to time-bound mediation in accordance with Section 12A of the 2015 Act if an objection is raised by the defendant by filing an application under Order VII Rule

11, or in cases where any of the parties expresses an intent to resolve the dispute by mediation."

8. Though the Hon'ble Supreme Court has held that pre-institution mediation under Section 12-A of the Act is mandatory, the exception to the requirement of pre-institution mediation in cases contemplating urgent interim relief continues to operate. This position is evident from clause (d) of the conclusions recorded by the Hon'ble Supreme Court.

8.1 The Hon'ble Supreme Court has further held that the question of whether a suit contemplates urgent interim relief must be examined with reference to the cause of action pleaded and the prayer made for such relief. While considering an application under Section 12-A of the Act, the Court must exercise caution to ensure that the plea of urgency is not an unfounded pretext to circumvent the mandatory requirement of pre-institution mediation.

8.2 It has also been held that even if the urgent interim relief sought is ultimately declined, the suit may nevertheless proceed without compliance with Section 12-A of the Act,

provided the test for urgent interim relief is satisfied, irrespective of the outcome of the prayer on merits.

9. In the present case, the Commercial Court has not examined whether the pleadings and the prayer made by the plaintiff disclose a bona fide requirement for urgent interim relief. The Commercial Court has also not considered whether the suit could proceed without compliance with Section 12-A of the Act, irrespective of the ultimate outcome of the prayer for interim relief.

10. If the Court finds that there are no bona fide grounds for seeking urgent interim relief, the suit cannot be rejected for non-compliance with Section 12-A of the Act merely because such relief is ultimately declined. This follows from the law laid down by the Hon'ble Supreme Court in ***M/s. Dhanbad Fuels Private Limited*** (supra).

11. A perusal of the impugned order reveals that the Commercial Court proceeded on the premise that compliance with Section 12-A of the Act is mandatory in all circumstances, without examining the exception applicable to suits

contemplating urgent interim relief. The conclusion reached by the Commercial Court is, therefore, founded on an incomplete appreciation of the judgment relied upon and is contrary to the law laid down by the Hon'ble Supreme Court.

12. In view of the above, this Court is inclined to entertain the writ petition. Accordingly, the following order:

O R D E R

I. W.P. No. 19383/2026 is ***allowed***.

II. The order dated 15.09.2025 passed in Com. O.S. No. 55/2025 is hereby ***set aside***.

III. The application filed under Section 12-A of the Commercial Courts Act, 2015, is ***restored*** to the file of the Commercial Court for fresh consideration in the light of the observations made hereinabove and the law laid down by the Hon'ble Supreme Court in ***M/s. Dhanbad Fuels Private Limited*** (supra).

13. In view of the order dated 15.09.2025 having been set aside, W.P. No. 12650/2026, challenging the order dated 25.02.2026 rejecting the refund of court fee, does not survive

for consideration. Accordingly, the writ petition is ***dismissed*** as having become infructuous.

Sd/-
(K. V. ARAVIND)
JUDGE

VP
List No.: 1 Sl No.: 4