IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO.3530 OF 2023 (GM-RES)
c/w
WRIT PETITION NO.3563 OF 2023 (GM-RES)

In W.P.No.3530/2023

BETWEEN:

1. M/S ITALIX LIVING SPACES PVT. LTD.
   REGISTERED UNDER
   THE COMPANIES ACT, 2013,
   HAVING ITS OFFICE AT:
   NO 38, ULSOOR ROAD,
   BANGALORE - 560042
   REPRESENTED BY ITS DIRECTORS
   MR. VASUDEVA SATYAMURTHY,
   MR. DURBHAKALA VAMSI SAI

2. MR. VASUDEVA SATYAMURTHY,
   S/O SATYA MURTHY,
   AGED ABOUT 56 YEARS,
   WORKING AT NO 38,
   ULSOOR ROAD,
   BANGALORE 560042

3. MR. DURBHAKULA VAMSI SAI
   AGED ABOUT 53 YEARS,
   WORKING AT NO.38,
   ULSOOR ROAD,
   BANGALORE 560042

4. MR. SUMMIT CHATTERJEE,
   AGED ABOUT 53 YEARS,
   WORKING AT NO. 38,

Digitally signed by LEELAVATHI S R
Location: High Court of Karnataka

ULSOOR ROAD,
BANGALORE 560042

…PETITIONERS

(BY SRI. M.S.SHYAM SUNDAR, SENIOR COUNSEL FOR
SMT. VANDANA P. L., ADVOCATE)

AND:

PRADHANANI CHATRABHUJ BASSARMAL,
S/O LATE BASSARMAL HOTCHAND PARDHANANI
PERMANENT R/AT FLAT NO.1504,
AL MAS TOWERS, DUBAI MARINA, PO BOX 5418,
DUBAI, UAE AND
BANGALORE RESIDENT AT: NO 46/3,
FAIR FIELD LAYOUT, RACE COURSE ROAD,
BANGALORE – 560 001

BY HIS POWER OF ATTORNEY HOLDER,
MR. M. SAHADEVA REDDY
AGED ABOUT 67 YEARS,
S/O LATE SRI M. BASI REDDY,
R/AT NO.185, AMAR JYOTHI LAYOUT,
5TH MAIN, DOMLUR INNER RING ROAD,
BANGALORE – 560 071

…RESPONDENT

(BY SRI. B.S. SATYANAND, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF INDIAN CONSTITUTION READ WITH SECTION 482 OF CODE OF CRIMINAL PROCEDURE PRAYING TO SET ASIDE THE ORDER PASSED BY THE HON'BLE LXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-64) BENGALURU, IN CRL.RP.NO.74/2022 DATED 16.01.2023 FILED BY THE PETITIONERS HEREIN AND ETC.

In W.P. NO.3563/2023

BETWEEN:

1. M/S ITALIX LIVING SPACES PVT LTD
   HAVING ITS OFFICE AT
   NO.38, ULSOOR ROAD,
   BANGALORE-560042
   REPRESENTED BY ITS DIRECTORS,
   MR VASUDEVA SATYAMURTHY
   MR DURBHAKALA VAMSI SAI

2. MR. VASUDEVAN SATYAMURTHY
S/O SATYA MOORTHY
AGED MAJOR
WORKING AT NO.38,
ULSOOR ROAD,
BANGALORE-560042

3. MR. DURBHAKULA VAMSI SAI
AGED MAJOR
WORKING AT NO.38,
ULSOOR ROAD,
BANGALORE-560042

4. MR. SUMMIT CHATTERJEE
AGED MAJOR,
WORKING AT NO.38,
ULSOOR ROAD,
BANGALORE-560042

…PETITIONERS

(BY SRI. M.S.SHYAM SUNDAR, SENIOR COUNSEL FOR
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PRADHANANI CHATRABHUJ BASSARMAL
S/O LATE BASSARMAL HOTCHAND PARDHANANI
PERMANET R/AT FLAT NO.1504,
AL MAS TOWERS, DUBAI MARINA, PO BOX 5418,
DUBAI UAE AND
BANGALORE RESIDENT AT NO.46/3,
FAIR FIELD LAYOUT, RACE COURSE ROAD,
BANGALORE-560001

BY HIS POWER OF ATTORNEY HOLDER
MR. M SAHADEVA REDDY,
AGED ABOUT 67 YEARS,
S/O LATE SRI M BASI REDDY,
R/AT NO.185, AMAR JYOTHI LAYOUT,
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BANGALORE - 560 071

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

CORAM: HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

After arguing the matter for some time, Sri.M.S.Shyam Sundar, learned Senior Counsel for the petitioner submits that the petitioner intends to urge various contentions before the Trial Court including the contention with regard to very maintainability of the proceedings under Section 138 of Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act' for short), in the light of arbitration proceedings already having been initiated by the respondent – complainant against the petitioner – accused, which are pending before the Arbitration Tribunal, which would render the impugned proceedings under Section 138 of NI Act not maintainable in law and the Trial Court may be directed to consider all contentions including maintainability of the complaint after providing sufficient and reasonable opportunity to the petitioner and dispose of the matter in accordance with law.

2. Per contra, Sri.B.S.Satyanand, learned counsel for the respondent submits that respondent would also urge all contentions on the merits as well as maintainability before the Trial Court and submits that all rival contentions may be kept open to be decided by the Trial Court.

3. The aforesaid submissions of both sides are placed on record.

4. In view of the aforesaid facts and circumstances and submissions made by both sides, I deem it just and appropriate to dispose of the petitions by directing the Trial Court to consider all rival contentions including contentions regarding maintainability of the proceedings under Section 138 of NI Act in the light of the pending arbitration proceedings and dispose of the complaint filed by respondent, as expeditiously as possible, after providing sufficient and reasonable opportunity to both sides.

5. Leaving open all contentions to be decided by the Trial Court, the petition stands disposed of.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

MDS: List No.: 3 Sl No.: 5