



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

COMMERCIAL APPEAL NO. 487 OF 2025

BETWEEN:

1. M/S KISHORE VIDYANIKETAN SOCIETY (R)
OFFICE AT SILICON VALLEY SCHOOL
C BLOCK, OPPOSITE SAI BABA TEMPLE
NEAR KODIGEHALI, SAHAKARA NAGAR,
BENGALURU - 560 092

REPRESENTED BY ITS SPA HOLDER
MR. NAGRAJU
S/O. LATE BOMMAIAH
AGED ABOUT 77 YEARS,
HAVING OFFICE AT SILICON VALLEY SCHOOL
'C' BLOCK, OPPOSITE SAI BABA TEMPLE
NEAR KODIGEHALI
SAHAKARA NAGAR
BENGALURU - 560 092

...APPELLANT

(BY SRI. SKANDA KUMAR, ADVOCATE FOR
SRI. M.D.RAGHUNATH, ADVOCATE)

AND:

1. ARBITRATION AND CONCILIATION CENTRE
OFFICE AT 3RD FLOOR, EAST WING,
'KHANIJA BHAVANA', RACE COURSE ROAD,
BENGALURU - 560 001
REP BY ITS DIRECTOR

...RESPONDENT





THIS COMAP IS FILED UNDER SECTION 13 OF THE COMMERCIAL COURTS ACT, PRAYING TO SET ASIDE THE JUDGMENT PASSED IN COM.A.A.NO.265/2025 BY LXXXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, AT BENGALURU (CCH-83) DATED 16.08.2025 AND ALLOW THE APPEAL THEREBY SETTING ASIDE THE JUDGMENT IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellant has filed the present appeal under Section 13 of the Commercial Courts Act, 2015 [**Act, 2015**] impugning the order dated 16.08.2025 passed by the learned Commercial Court in Com.A.A.No.265/2025. The appellant had filed the said application under Section 39(2) of the Arbitration and Conciliation Act, 1996, [**the A&C Act**] *inter alia* praying that the respondent be directed to provide certified copies of the arbitral award without seeking deposit of arbitral fees. The said petition was disposed of



in terms of the impugned order with a direction to the appellant to comply with the order passed by the learned Single Judge of this Court in W.P. No.19679/2025.

2. The present appeal has been filed under Section 13(1A) of the Act, 2015. We find that the same is not maintainable. A plain reading of proviso to Sub Section (1A) of Section 13 of the Act, 2015 specifies that an appeal is maintainable either from the orders of the Commercial Court, which are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 [**CPC**] or under Section 37 of the A&C Act. Neither Order XLIII of the CPC nor Section 37 of the A&C Act provides for an appeal against the order passed under Section 39(2) of A&C Act.

3. In ***Kandla Exports Corporation and another vs. OCI Corporation and another : (2018) 14 SCC 715***, the Hon'ble Supreme Court has held as under:

"13. Section 13(1) of the Commercial Courts Act, with which we are immediately concerned in these appeals, is in two parts. The main provision is, as has been correctly submitted by Shri Giri, a provision which provides for appeals from judgments, orders and decrees of the Commercial Division of the High Court. To this main provision, an exception is carved out by the proviso. The primary purpose of a proviso is to qualify



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the generality of the main part by providing an exception, which has been set out with great felicity in CIT v. Indo-Mercantile Bank Ltd. [CIT v. Indo-Mercantile Bank Ltd., 1959 Supp (2) SCR 256 : AIR 1959 SC 713] , thus: (SCR pp. 266-67 : AIR pp. 717-18, paras 9-10)

“9. ... The proper function of a proviso is that it qualifies the generality of the main enactment by providing an exception and taking out as it were, from the main enactment, a portion which, but for the proviso would fall within the main enactment. Ordinarily it is foreign to the proper function of a proviso to read it as providing something by way of an addendum or dealing with a subject which is foreign to the main enactment.

‘8. ... it is a fundamental rule of construction that a proviso must be considered with relation to the principal matter to which it stands as a proviso.’

Therefore, it is to be construed harmoniously with the main enactment. (Per Das, C.J. in Abdul Jabar Butt v. State of J&K [Abdul Jabar Butt v. State of J&K, 1957 SCR 51 : AIR 1957 SC 281 : 1957 Cri LJ 404] , SCR p. 59 : AIR p. 284, para 8). Bhagwati, J., in Ram Narain Sons Ltd. v. CST [Ram Narain Sons Ltd. v. CST, (1955) 2 SCR 483 : AIR 1955 SC 765] , said: (SCR p. 493 : AIR p. 769, para 10)

‘10. It is a cardinal rule of interpretation that a proviso to a particular provision of a statute only embraces the field which is covered by the main provision. It carves out an exception to the main provision to which it has been enacted as a proviso and to no other.’

10. Lord Macmillan in Madras & Southern Mahratta Railway Co. Ltd. v. Bezwada Municipality [Madras & Southern Mahratta Railway Co. Ltd. v. Bezwada Municipality, 1944 SCC OnLine PC 7 : (1943-44) 71 IA 113] laid down the sphere of a proviso as follows: (IA p. 122 : SCC OnLine PC)



‘... The proper function of a proviso is to except and deal with a case which would otherwise fall within the general language of the main enactment, and its effect is confined to that case. Where, as in the present case, the language of the main enactment is clear and unambiguous, a proviso can have no repercussion on the interpretation of the main enactment, so as to exclude, from it by implication what clearly falls within its express terms.’

The territory of a proviso therefore is to carve out an exception to the main enactment and exclude something which otherwise would have been within the section. It has to operate in the same field and if the language of the main enactment is clear it cannot be used for the purpose of interpreting the main enactment or to exclude by implication what the enactment clearly says unless the words of the proviso are such that that is its necessary effect. (Vide also *Toronto Corpn. v. Attorney-General of Canada* [*Toronto Corpn. v. Attorney-General of Canada*, 1946 AC 32 (PC)] , AC p. 37.)”

14. The proviso goes on to state that an appeal shall lie from such orders passed by the Commercial Division of the High Court that are specifically enumerated under Order 43 of the Code of Civil Procedure Code, 1908, and Section 37 of the Arbitration Act. It will at once be noticed that orders that are not specifically enumerated under Order 43 CPC would, therefore, not be appealable, and appeals that are mentioned in Section 37 of the Arbitration Act alone are appeals that can be made to the Commercial Appellate Division of a High Court."

4. However, the Supreme Court further held that since Section 50 of the A&C Act also provides for an appeal, the same would be maintainable. Clearly, where there is no specific appeal provided



from an order contemplated under the A&C Act, an appeal from such an order would not be maintainable under Section 13 of the Act 2015.

5. In view of the above, the present appeal is not maintainable and the same is dismissed.

6. Needless to state that this order would not preclude the appellant from availing of any other remedy, if otherwise available, in law.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

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