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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE H.T. NARENDRA PRASAD

WRIT PETITION NO. 6985 OF 2024 (GM-CPC)

BETWEEN:

BHASKAR NAIDU
S/O LATE BHATHANI NAIDU
AGED ABOUT 69 YEARS
RESIDING AT FLAT NO.B-703
80 FEET ROAD, PHASE III
J P NAGAR 8TH PHASE
BENGALURU-560083.

...PETITIONER

(BY SRI. REUBEN JACOB, SENIOR COUNSEL FOR
SRI. SOURABH R K., ADVOCATE)

AND:

ARAVIND YADAV
S/O NEELAKANTAPURAM
NARASIMHAMURTHY
AGED ABOUT 43 YEARS
RESIDING AT NO.21/1
YAMUNABAI ROAD
MADHAVANAGAR
BENGALURU-560001

...RESPONDENT

(BY SRI. ANNAIAH C V., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA PRAYING TO-SET ASIDE ORDER
DATED: 23.02.2024, PASSED IN COMM. OS NO. 277/2023
PENDING ON THE FILE OF THE HONBLE LXXXIII ADDL. CITY
CIVIL AND SESSIONS JUDGE, BENGALURU AT ANNEXURE-A
AND ETC.





THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE H.T. NARENDRA PRASAD

ORAL ORDER

This writ petition is filed by the defendant under Article 227 of the Constitution of India, challenging the order dated 23.02.2024 passed by LXXXIII Additional City Civil and Sessions Judge, Bengaluru in Com.O.S. No.277/2023, whereby the application filed by the defendant under Order VII Rule 10 is rejected.

2. The plaintiff filed a suit for recovery of money on the basis of the agreement dated 09.10.2020. On the service of summons, defendant appeared through counsel and filed the written statement and also filed an application under Order VII Rule 10 of CPC for return of the plaint on the ground that suit is not maintainable before the Commercial Court since it is not a commercial dispute. By the impugned order, the said application came to be rejected. Being aggrieved by the same, the defendant is before this Court.



3. The learned Senior Counsel appearing for the petitioner contended that the petitioner/defendant is a shareholder of the company, the respondent/plaintiff is a third party. There was an agreement between the petitioner and the respondent for the purpose of sale of shares belonging to the petitioner. The agreement dated 09.10.2020 is only a Share Purchase Agreement and it is not a Shareholder Agreement. Therefore, the suit is not maintainable before the Commercial Court.

4. He further contended that as per Section 2(1)(c)(xii) of the Commercial Court's Act, 2015, the dispute related to Shareholder Agreement is only maintainable before the Commercial Court and not dispute in respect of Share Purchase Agreement. Hence, he sought to allow the petition.

5. On the other hand, learned counsel appearing for the respondent/plaintiff contended that the respondent/plaintiff has agreed to purchase the shares of the petitioner/defendant by an agreement and the same is a



commercial transaction. Therefore, the Commercial Court has jurisdiction to entertain the suit. Hence, he sought to dismiss the petition.

6. Heard the learned counsel for the parties and perused the writ papers.

7. It is not in dispute that the petitioner/defendant is a shareholder of Bengaluru Fresh Fruits Pvt. Ltd. He wants to sell his shares to a third party. The respondent/plaintiff agreed to purchase the same. For that purpose, they have entered into an agreement dated 09.10.2020. The respondent/plaintiff is not a shareholder of Bengaluru Fresh Fruits Pvt. Ltd. The suit is filed for recovery of money in respect of Annexure-B, i.e., Share Purchase Agreement.

8. As per the Law Dictionary, the definition of 'Shareholder Agreement' is as under:

"The contract between a firm and the share holders which outlines how internal affairs of the firm are managed, how any disputes are resolved



and what happens when a share holder is bankrupt, resigns, is discharged, retires or is incapacitated.”

As per LexisNexis, the definition of ‘Share Purchase Agreement’ is as under:

“It records the terms by which the buyer agrees to purchase from the seller(s) shares in the capital of the target company (either the entire share capital of the target or a partial share sale). The buyer agrees to pay to the seller the purchase price for the acquisition of the sale shares in return for which the seller transfers title in the sale shares to the buyer by executing a stock transfer form. This takes effect at completion of the transaction, which will occur either at the same time that the SPA is executed or upon an agreed later date (where there are conditions to completion).”

9. From the above, it is very clear that Annexure-B agreement, dated 09.10.2020 is a ‘Share Purchase Agreement’ and it is not a ‘Shareholder Agreement’.

10. The definition of “Commercial dispute” as per the Commercial Courts Act, 2015 is as under:

“2(1)(c) “Commercial dispute” means a dispute arising out of –



.....

.....

(xii) shareholders agreements.”

11. In view of the above discussions, the suit filed by the respondent/plaintiff before the Commercial Court is not maintainable. The trial court has erred in dismissing the application filed by the petitioner/defendant under Order VII Rule 10 of CPC.

12. Accordingly, the following order is passed:

(i) The writ petition is allowed.

(ii) The order dated 23.02.2024 passed by LXXXIII Additional City Civil and Sessions Judge, Bengaluru on IA No.2 in Com.O.S.No.277/2023 is set aside.

(iii) Since the matter comes within the jurisdiction of the Principal City Civil and Sessions Judge, Bengaluru, the matter is remitted back to the Court of Principal City Civil and Sessions Judge, Bengaluru to re-allot the case to any other regular court, in accordance with law.



(iv) In view of disposal of the main matter, all pending applications stand disposed of.

**(H.T. NARENDRA PRASAD)
JUDGE**

CM
List No.: 1 Sl No.: 56