



CNR: KAHC010334662025

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NC: 2026:KHC:52487-DB
COMAP No. 290 of 2025
C/W COMAP No. 260 of 2025
COMAP No. 263 of 2025
AND 3 OTHERS

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 22ND DAY OF SEPTEMBER, 2026
PRESENT**

**THE HON'BLE MR. JUSTICE D K SINGH
AND
THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN
COMMERCIAL APPEAL NO. 290 OF 2025
C/W
COMMERCIAL APPEAL NO. 260 OF 2025
COMMERCIAL APPEAL NO. 263 OF 2025
COMMERCIAL APPEAL NO. 292 OF 2025
COMMERCIAL APPEAL NO. 294 OF 2025
COMMERCIAL APPEAL NO. 305 OF 2025**

IN COMAP No. 290/2025

BETWEEN:

1. SRI DILIP C.,
S/O. SRI CHANDRANNA G.
AGED ABOUT 33 YEARS,
R/AT NO.29, 2ND CROSS
CHIRANJEEVI LAYOUT,
HEBBALA KEMPAPURA,
BANGALORE - 560 024.
2. SRI K.M.SRINIVAS RAJU
S/O SRI MUNISWAMI RAJU,
AGED ABOUT 46 YEARS,
R/AT NO. 1373, 2ND D MAIN ROAD,
GOKULA YESHWANTHAPURA
BANGALORE - 560 022

REPRESENTED BY THEIR GPA HOLDER
SRI G.PUTTARAJA
S/O LATE H V GOPALAKRISHNAPPA
AGED ABOUT 71 YEARS

R/AT NO. 236, KORAMMA BEEDI,
TALUK OFFICE ROAD,

Digitally signed
by MALA K N
Location:
HIGH COURT
OF
KARNATAKA



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DEVANAHALLI TOWN
DEVANAHALLI,
BANGALORE RURAL - 562110

...APPELLANTS

(BY SRI. ASHOK HARANAHALLI, SENIOR COUNSEL FOR
SRI. NARASIMHARAJU, ADVOCATE)

AND:

SMT. DIANA D SOUZA
W/O LATE VISHANTH VICENT D SOUZA
AGED ABOUT 55 YEARS,
R/AT NO. 530, 20TH WARD,
NEAR OLD BUS STAND,
CHANNARAYAPATTANA ROAD,
DEVANAHALLI TOWN
BANGALORE RURAL DISTRICT - 562 110

...RESPONDENT

(BY SRI. S. RAJASHEKAR, ADVOCATE FOR C/R)

THIS COMAP IS FILED UNDER SEC..13(1-A) OF COMMERCIAL COURTS ACT, 2015., PRAYING TO CALL FOR THE RECORD IN COM.AP. NO.169/2024 DATED 19.03.2025 PASSED BY THE LXXXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, COMMERCIAL COURT, BENGALURU (CCH-84) AND ALSO AWARD IN AC NO.160/2022 DATED 29.08.2024 PASSED BY THE HONBLE ARBITRATOR, ARBITRATION CENTRE, BENGALURU AND ON PERUSAL SET-ASIDE THE PORTION OF THE JUDGMENT PASSED BY THE LXXXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, COMMERCIAL COURT, BENGALURU (CCH-84) DATED 19.03.2025 IN COM.AP. NO.169/2024 AND ALSO SET ASIDE THE AWARD PASSED BY THE HONBLE ARBITRATOR IN AC NO.160/2022 DATED 29.08.2024 IN THE INTEREST OF JUSTICE AND EQUITY.

IN COMAP NO. 260/2025

BETWEEN:

SMT.CYNTHIYA LEWIS.



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W/O. LATE. AUGUSTINE D'SOUZA,
R/AT. 534. PUTTAPPANAGUDI BEEDHI,
NEAR OLD BUS SATND,
DEVANAHALLI TOWN,
BENGALURU RURAL DISTRICT - 562 110.

REP. BY HER P.A. HOLDER
MR. BANSTON D'SOUZA

REP. BY HER G.P.A. HOLDER
MR. BANSTON D'SOUZA

MR. BANSTON D'SOUZA
S/O LATE AUGUSTINE D'SOUZA,
AGED ABOUT 28 YEARS,
R/AT PUTTAPPANAGUDI BEEEDHI.
NEAR OLD BUS STAND,
DEVANAHALLI TOWN
BENGALURU RURAL DISTRICT
BENGALURU - 562 110

...APPELLANT

(BY SRI. S.RAJASHEKAR, ADVOCATE)

AND:

1. SRI DILIP C.,
S/O. SRI CHANDRANNA G.
AGED ABOUT 33 YEARS,
R/AT NO.29, 2ND CROSS
CHIRANJEEVI LAYOUT,
HEBBALA KEMPAPURA,
BANGALORE - 560 024.
2. SRI K.M.SRINIVAS RAJU
S/O SRI MUNISWAMI RAJU,
AGED ABOUT 46 YEARS,
R/AT NO. 1373, 2ND D MAIN ROAD,
GOKULA YESHWANTHAPURA
BANGALORE - 560 022

...RESPONDENTS



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THIS COMAP FILED UNDER SECTION 13(1-A) OF THE COMMERCIAL COURTS ACT, PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT ORDER DATED 19.03.2025 PASSED IN COM.AP.NO.170/2024 ON THE FILE OF THE LXXXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, AT BENGALURU TO THE EXTENT THE APPELLANT IS AGGRIEVED AND GRANT SUCH OTHER AND FURTHER RELIEFS AS THIS HONBLE COURT DEEMS FIT AND PROPER UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE AND EQUITY.

IN COMAP NO. 263/2025

BETWEEN:

1. SMT. THERESA LOBO
W/O. LATE. BENEDICT D'SOUZA,
AGED ABOUT 94 YEARS
2. SMT. DULCINE JOSEPH CORDA
D/O. LATE. BENEDICT D'SOUZA,
AGED ABOUT 74 YEARS
3. SRI. GILBERT D'SOUZA
S/OF. LATE. BENEDICT D'SOUZA
AGED ABOUT 72 YEARS
4. SMT. DEJI BARNES
D/O. LATE. BENEDICT D'SOUZA,
AGED ABOUT 65 YEARS
5. SMT. MABLE D'SOUZA
D/OF. LATE. BENEDICT D'SOUZA,
AGED ABOUT 62 YEARS
6. SRI.XAVIER RUDOLF D'SOUZA
S/OF. LATE. BENEDICT D'SOUZA
AGED ABOUT 60 YEARS
7. SMT. WILMA D'SOUZA



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D/OF. LATE. BENEDICT D'SOUZA,
AGED ABOUT 57 YEARS

8. SMT. MEENA RITA SALDANHA
D/OF. LATE. BENEDICT D'SOUZA,
AGED ABOUT 52 YEARS
9. SMT. CYNTHIA LEWIS
W/OF. LATE. AUGUSTINE D'SOUZA,
AGED ABOUT 60 YEARS
10. SMT. BINITA D'SOUZA
D/OF. LATE. AUGUSTINE D'SOUZA,
AGED ABOUT 33 YEARS
11. SRI. BANSTON D'SOUZA
S/OF. LATE. AUGUSTINE D'SOUZA,
AGED ABOUT 29 YEARS

ALL ARE
R/AT. 534, PUTTAPPANAGUDI BEEDHI,
NEAR OLD BUS STAND,
WARD NO. 19. DEVANAHALLI TOWN,
BENGALURU RURAL DISTRICT - 562 110

REP. BY HER G.P.A. HOLDER
MR. BANSTON D'SOUZA
S/O LATE AUGUSTINE D'SOUZA,
AGED ABOUT 29 YEARS
R/AT PUTTAPPANAGUDI BEEEDHI,
NEAR OLD BUS STAND,
DEVANAHALLI TOWN,
BENGALURU RURAL DISTRICT
BENGALURU - 562 110

...APPELLANTS

(BY SRI. S.RAJASHEKAR.,ADVOCATE)

AND:



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1. SRI. G. CHANDRANNA
S/O LATE. H.V. GOPALAKRISHNAPPA
AGED ABOUT 68 YEARS.
R/AT. NO. 29. 2ND CROSS.
CHIRANJEEVI LAYOUT,
HEBBALA KEMPAPURA,
BENGALURU - 560 024
2. SRI. R. KRISHNAPPA
S/OF. LATE. REDDAPPA,
AGED ABOUT 74 YEARS,
R/AT. 105. 'LAKSHMI NILAYA,
4TH CROSS, 5TH MAIN,
PAPANNA BLOCK,
GANGANAGARA, BENGALURU - 560 032

...RESPONDENTS

THIS COMAP IS FILED UNDER SECTION 13(1-A) OF THE COMMERCIAL COURTS ACT, PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT ORDER DATED 19.03.2025 PASSED IN COM.AP.NO.171/2024 ON THE FILE OF THE LXXXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, AT BENGALURU TO THE EXTENT THE APPELLANT IS AGGRIEVED AND GRANT SUCH OTHER AND FURTHER RELIEFS AS THIS HONBLE COURT DEEMS FIT AND PROPER UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE AND EQUITY.

IN COMAP NO. 292/2025

BETWEEN:

1. SRI.G. CHANDRANNA
S/O LATE H V GOPALAKRISHNAPPA
AGED ABOUT 69 YEARS,
R/AT NO. 29, 2ND CROSS,
CHIRANJEEVI LAYOUT,
HEBBALA KEMPAPURA
BANGALORE – 560 024



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2. SRI R. KRISHNAPPA
S/O LATE REDDAPPA
AGED ABOUT 75 YEARS
R/AT NO.104, LAKSHMI NILAYA,
4TH CROSS, 5TH MAIN, 2ND CROSS,
PAPANNA BLOCK, GANGA NAGARA
BANGALORE - 560032

REPRESENTED BY THEIR GPA HOLDER
SRI G PUTTARAJA
S/O LATE H V GOPALAKRISHNAPPA
AGED ABOUT 71 YEARS
R/AT NO. 236, KORAMMA BEEDI
TALUK OFFICE ROAD,
DEVANAHALLI TOWN
DEVANAHALLI
BANGALORE RURAL - 5621 10

...APPELLANTS

(BY SRI. ASHOK HARANAHALLI, SENIOR COUNSEL FOR
SRI. NARASIMHARAJU, ADVOCATE)

AND:

1. SMT. THERESA LOBO
W/O LATE BENEDICT D SOUZA,
AGED ABOUT 92 YEARS,
2. SMT. DULCINE JOSEPH CORDA
D/O LATE BENEDICT D SOUZA
AGED 71 YEARS
3. SRI GILBERT D SOUZA
S/O LATE BENEDICT D SOUZA
AGED ABOUT 70 YEARS
4. SMT. DEJI BARNES
D/O LATE BENEDICT D SOUZA
AGED ABOUT 63 YEARS



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5. SMT. MABLE D SOUZA
D/O LATE BENEDICT D SOUZA
AGED ABOUT 60 YEARS
6. SRI XAVIER RUDOLF D SOUZA
S/O LATE BENEDICT D SOUZA
AGED ABOUT 58 YEARS
7. SMT. WILMA D SOUZA
D/O LATE BENEDICT D SOUZA
AGED ABOUT 55 YEARS
8. SMT. MEENA RITA SALDANHA
D/O LATE BENEDICT D SOUZA
AGED ABOUT 50 YEARS
9. SMT. CYNTHIA LEWIS
W/O LATE AUGUSTINE D SOUZA
AGED ABOUT 58 YEARS
10. SMT. BINTA D SOUZA
D/O LATE AUGUSTINE D SOUZA
AGED ABOUT 31 YEARS
11. SRI BANSON D SOUZA
S/O LATE AUGUSTINE D SOUZA
AGED ABOUT 27 YEARS

ALL ARE RESIDING AT NO. 534,
PUTTAPPANAGUDI BEEDHI,
NEAR OLD BUS STAND, WARD NO.19,
DEVANAHALLI TOWN,
BENGALURU RURAL DISTRICT - 562 110

THE RESPONDENTS NO.1 TO 10
REPRESENTED BY THEIR GPA HOLDERS

SRI. BANSTON D SOUZA
S/O LATE AUGUSTINE D SOUZA
AGED ABOUT 27 YEARS



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SRI GLADSON D SOUZA
S/O GILBERT D SOUZA
AGED ABOUT 34 YEARS

BOTH ARE RESIDING AT NO. 534
PUTTAPPANAGUDI BEEDHI
NEAR OLD BUS STAND, WARD NO.19
DEVANAHALLI TOWN
BENGALURU RURAL DISTRICT - 562110

...RESPONDENTS

(BY SRI. S. RAJASHEKAR ADVOCATE FOR C/R1- R11)

THIS COMAP IS FILED UNDER SEC..13(1-A) OF COMMERCIAL COURTS ACT, 2015., PRAYING TO CALL FOR THE RECORD IN COM.AP. NO.171/2024 DATED 19.03.2025 PASSED BY THE LXXXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, COMMERCIAL COURT, BENGALURU (CCH-84) AND ALSO AWARD IN AC NO.162/2022 DATED 29.08.2024 PASSED BY THE HONBLE ARBITRATOR, ARBITRATION CENTRE, BENGALURU AND ON PERUSAL SET-ASIDE THE PORTION OF THE JUDGMENT PASSED BY THE LXXXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, COMMERCIAL COURT, BENGALURU (CCH-84) DATED 19.03.2025 IN COM.AP. NO.171/2024 AND ALSO SET ASIDE THE AWARD PASSED BY THE HONBLE ARBITRATOR IN AC NO.162/2022 DATED 29.08.2024 IN THE INTEREST OF JUSTICE AND EQUITY.

IN COMAP NO. 294/2025

BETWEEN:

1. SRI DILIP.C.,
S/O. SRI CHANDRANNA G.
AGED ABOUT 33 YEARS,
R/AT NO.29, 2ND CROSS,
CHIRANJEEVI LAYOUT,
HEBBALA KEMPAPURA,
BANGALORE – 560 024



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2. SRI K.M. SRINIVAS RAJU,
S/O. SRI MUNISWAMI RAJU,
AGED ABOUT 46 YEARS,
R/AT NO.1373, 2ND 'D' MAIN ROAD,
GOKULA YESHWANTHAPURA,
BANGALORE – 560 022

REPRESENTED BY THEIR GPA HOLDER
SRI G. PUTTARAJA
S/O. LATE H.V. GOPALAKRISHNAPPA,
AGED ABOUT 71 YEARS
R/AT NO.236, KORAMMA BEEDI,
TALUK OFFICE ROAD, DEVANAHALLI TOWN,
DEVANAHALLI, BANGALORE RURAL – 562110

...APPELLANTS

(BY SRI. ASHOK HARNAHALLI, SENIOR COUNSEL FOR
SRI. NARASIMHARAJU.,ADVOCATE)

AND:

SMT. CYNTHIA LEWIS
W/O AUGUSTINE D'SOUZA
AGED ABOUT 57 YEARS,
R/AT NO.534, PUTTAPPANAGUDI BEEDHI,
NEAR OLD BUS STAND,
DEVANAHALLI TOWN,
BENGALURU RURAL DISTRICT – 562 110

REPRESENTED BY GPA HOLDERS

01.SRI BENSTON D'SOUZA,
S/O AUGUSTINE D'SOUZA
AGED ABOUT 27 YEARS

02.SRI GLADSON D'SOUZA,
S/O. GILBERT D'SOUZA
AGED ABOUT 34 YEARS

BOTH ARE R/AT NO.534,
PUTTAPPANAGUDI BEEDHI,



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NEAR OLD BUS STAND,
DEVANAHALLI TOWN,
BENGALURU RURAL DISTRICT 562110

...RESPONDENTS

(BY SRI.S.RAJASHEKAR ADVOCATE FOR C/R)

THIS COMAP IS FILED UNDER SEC..13(1-A) OF COMMERCIAL COURTS ACT, 2015., PRAYING TO CALL FOR THE RECORD IN COM.AP. NO.170/2024 DATED 19.03.2025 PASSED BY THE LXXXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, COMMERCIAL COURT, BENGALURU (CCH-84) AND ALSO AWARD IN AC NO.161/2022 DATED 29.08.2024 PASSED BY THE HONBLE ARBITRATOR, ARBITRATION CENTRE, BENGALURU AND ON PERUSAL SET-ASIDE THE PORTION OF THE JUDGMENT PASSED BY THE LXXXII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, COMMERCIAL COURT, BENGALURU (CCH-84) DATED 19.03.2025 IN COM.AP. NO.170/2024 (AS PER THE AGGRIEVED PARA) AND ALSO SET ASIDE THE AWARD PASSED BY THE HONBLE ARBITRATOR IN AC NO.161/2022 DATED 29.08.2024 IN THE INTEREST OF JUSTICE AND EQUITY.

IN COMAP NO. 305/2025

BETWEEN:

SMT. DIANA D'SOUZA
W/O LATE VISHANTH VINCENT.
AGED ABOUT 55 YEARS.
R/AT NO.530. 20TH WARD,
NEAR OLD BUS STAND,
CHANNARAYAPATTANA ROAD,
DEVANAHALLI TOWN,
BENGALURU RURAL DISTRICT - 562 110.

REP. BY HER G.P.A. HOLDER
MR. BANSTON D'SOUZA
S/O LATE AUGUSTINE D'SOUZA,



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AGED ABOUT 28 YEARS,
R/AT PUTTAPPANAGUDI BEEEDHI,
NEAR OLD BUS STAND,
DEVANAHALLI TOWN,
BENGALURU RURAL DISTRICT,
BENGALURU - 562 110

...APPELLANT

(BY SRI. S.RAJASHEKAR.,ADVOCATE)

AND:

1. SRI DILIP. C
SRI CHANDRANNA G.
AGED ABOUT 33 YEARS
R/AT NO.29, 2ND CROSS,
CHIRANJEEVI LAYOUT,
HEBBALA KEMPAPURA,
BENGALURU – 560 024.
2. SRI K.M SRINIVAS RAJU
S/O SRI MUNISWAMI RAJU,
AGED ABOUT 46 YEARS.
R/AT NO.1373, 2ND 'D' MAIN ROAD,
GOKULA YESHWANTHAPURA,
BENGALURU – 560 022.

...RESPONDENTS

THIS COMAP IS FILED UNDER SECTION 13(1-A) OF THE COMMERCIAL COURTS ACT, PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT ORDER DATED 19.03.2025 PASSED IN COM.AP.NO.169/2024 ON THE FILE OF THE LXXXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, AT BENGALURU TO THE EXTENT THE APPELLANT IS AGGRIEVED AND GRANT SUCH OTHER AND FURTHER RELIEFS AS THIS HON'BLE COURT DEEMS FIT AND PROPER UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE AND EQUITY.

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



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

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

The present appeal under Section 37 (1) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as Act, 1996 for short) has been filed impugning the order dated 19.03.2025 passed in Commercial Application No. 169/2024 filed under Section 34 of the Act, 1996 impugning the award dated 29.08.2024 passed by the sole arbitrator in the matter of AC No. 160/2022 between the respondents and the appellants herein.

2. For convenience, the parties are referred to as per their ranking in COMAP.No.290/2025.

3. The respondent is the owner of one acre of land in Sy.No.157, situated in Bidaluru Village, Devanahalli Taluk, Bengaluru District.



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4. A Joint Development Agreement (JDA for short) entered on 28.02.2014 between the respondent and the appellants herein for developing the said land to build a multistoried housing project. As per the agreements, the property was required to be developed within 2 years from the date of agreement i.e., by 27.02.2016 however, nothing was done by the respondent till 2021. The owner of the land i.e., the respondent invoked the arbitration clause of the agreement to refer the dispute to the arbitrator and in pursuance to the order passed by this Court in CMP No. 296/2021 and connected matters, dated 03.03.2022, the Sole Arbitrator was appointed to adjudicate the dispute. After exchange of the pleadings, the following issues were framed by the sole arbitrator.

"Issues

1. *Whether the claimants prove that the respondents have failed to perform their part of obligation as contemplated in General Power of Attorney dated 28.02.2014?*
2. *Whether the claimants prove that the respondents have failed to perform and complete the terms and conditions of the Joint Development Agreement dated 28.02.2014?*



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3. *Whether the respondents prove that the claimant has failed in performing her part as per the Joint Development Agreement and General Power of Attorney?*
4. *Whether the claimants prove that the Joint Development agreement is liable to be cancelled or terminated?*
5. *Whether the claimants prove that the respondents are liable to pay damages along with the costs of litigation to the claimants?*
6. *What order or award?"*

5. The sole arbitrator finally decided the arbitral claim and passed the following award:

"AWARD

1. *The claim petition is allowed with cost, holding that the JDA and GPA dated 28.02.2014 stands cancelled. The respondents are directed to execute the necessary cancellation deeds, failing which, the claimant is entitled to get such cancellation deeds be executed through the process of the Court at the cost of the respondents including the Stamp Duty legally admissible. The refundable deposit stands forfeited shall be retained and utilized by the claimant as the owner thereof.*
2. *The office of Arbitration Centre, Bengaluru is directed to send copy of the award along with a covering letter addressed to the concerned sub-registrar office.*
3. *The Stamp Duty is payable as per Karnataka Stamp Act, 1957."*



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6. Being aggrieved by the said award, the respondent filed the arbitration application to set aside the award under Section 34 of the Act, 1996. The Commercial Court vide impugned order, while affirming the arbitral award in part, set aside the award for forfeiture of the advance paid by the appellants and granted liberty to the appellants to take appropriate proceedings to recover the advance given to the respondent cum owner of the land.

7. Sri. Ashok Haranahalli, learned Senior Counsel assisted by Sri. Narasimharaju, learned counsel appearing for the appellants submits that the appellants could not develop the property as there was no proper approach road to the land in question and despite the respondent's effort to get the approach road for the property, nothing moved, and therefore, the property could not be developed. It is further submitted that when the Commercial Court has opined that the respondent was not entitled to forfeit the advance, the commercial Court ought



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to have directed the respondent to refund the said amount along with the interest.

8. On the other hand, Sri. S. Rajashekar, learned counsel for the respondent has disputed the submissions and submitted that for more than seven years, the appellants did not do anything to develop the property, no steps were taken. They entered into the JDA after due verification of the property title and rights of the respondent. There was no promise by the respondent to provide 40 feet wide road. As the appellants failed to fulfill its obligation under the JDA, despite lapse of 7 years from the date of agreement, the arbitration clause was invoked. Learned arbitrator has decided the issue comprehensively and none of the ground as mentioned under Section 34 of the Act, 1996 are available to challenge the arbitral award. As the appellants committed gross breaches of the JDA and they held back the property for several long years, the respondents was entitled to forfeit the advance given by



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the appellants. Therefore, the arbitrator has rightly held that the respondent was entitled to forfeit the advance given by the appellants.

9. It is further submitted that the respondent has challenged the order of the Commercial Court to the extent setting aside as the Arbitral Award, so far as the forfeiture of the advance amount is concerned, inasmuch as the forfeiture of the advance amount would not come within any of the grounds as mentioned under Section 34 of the Act, 1996. The arbitral award is neither in conflict with public policy of India or against the law, nor it is in contravention of the fundamental policy of Indian law, nor it is in conflict with the basic notion of morality or justice. There is no patent illegality appearing on the face of the award which warranted the Commercial Court to interfere with in an application filed under Section 34 of the Act, 1996.

10. We have considered the submissions.



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11. We have perused the terms of the JDA dated 28.02.2014. It is true that there is no provision for forfeiture of the advance amount in case of failure to perform its obligations by the appellants. But the fact remains that for seven long years the developer did not develop the property and took no effective steps towards implementation of the JDA. The statute provides only limited scope of interference in the arbitral award. As the arbitration is outcome of the party autonomy and therefore, unless until one of the grounds as mentioned in Section 34 of the Act, 1996 is present, in the Arbitration Award, the Court should be loath to interfere with the arbitration award. Forfeiture of the advance paid by the developer who failed to carry out the obligation under the JDA for 7 long years, cannot be said to be such a direction in the award which would be in conflict with the public policy of India or in contravention with the fundamental policy of Indian law nor in conflict with the basic notion of



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morality and justice. We also do not find that the award is vitiated by patent illegality as provided under Section 34 (2)(a) of the Arbitration Act. The Commercial Court on an application under Section 34 has partly set aside the award so far as the forfeiture of the advance amount given by the developer to the owner is concerned and given liberty to the appellants herein to take appropriate proceedings for recovery of the said property.

12. We have held that the forfeiture of the advance in the facts and circumstances of the case, would not come within any of the grounds as mentioned in Section 34 of the Act, 1996, the interference with the arbitral award to that extent by the Commercial Court in an application under Section 34 of the Act, 1996 is not proper and therefore, to that extent the impugned order is set aside. Accordingly, the following:



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ORDER

- (i) The appeal filed by the appellants stands dismissed.
- (ii) The judgment dated 19.03.2025 passed in Com.A.P.No.169/2024 by the LXXXII Additional City Civil and Sessions Judge, Commercial Court, Bengaluru (CCH -84) is affirmed and interference with the arbitral award to the extent of forfeiture of the advance in an application under Section 34 of the Act, 1996 is set aside.
- (iii) The appeal filed by the respondent is allowed.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(H.SHANTHI BHUSHAN)
JUDGE**

BVK
List No.: 2 Sl No.: 5