HC-KAR
CNR: KAHC010230712026

NC: 2026:KHC:59059
WP No. 10696 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 10696 OF 2026 (GM-RES)

BETWEEN:

1. AUBERGINE PROPERTIES PRIVATE LIMITED
A PRIVATE LIMITED COMPANY
HAVING ITS REGISTERED
OFFICE AT NO.11, GC ROAD,
ULSOOR, BANGALORE,
KARNATAKA 560042
REPRESENTED BY ITS
MANAGING DIRECTOR
MR. ANTONY KUNNEL GEORGE.

2. MR. ANTONY KUNNEL GEORGE
MANAGING DIRECTOR
AUBERGINE PROPERTIES PRIVATE LIMITED
HAVING ITS REGISTERED OFFICE
AT NO. 11, GC ROAD, ULSOOR,
BANGALORE, KARNATAKA - 560042.

...PETITIONERS

(BY SRI. NANDAN KARTHIKEYAN A/W
SRI. VIJAY PRABHU S., ADVOCATE FOR P1
SMT. LUDHVEENA K LUTHRIA.,ADVOCATE FOR P2)

Digitally signed by VANAMALA N
Location: HIGH COURT OF KARNATAKA

AND:

1. KARNATAKA REAL ESTATE
REGULATORY AUTHORITY
REPRESENTED BY ITS
SECRETARY 2ND FLOOR,
SILVER JUBILEE BLOCK,
UNITY BUILDING, CSI COMPOUND,
3RD CROSS, MISSION ROAD,
BENGALURU, KARNATAKA - 560027.

2. KROYANA SPECIAL SITUATIONS FUND
ALTERNATIVE INVESTMENT FUND
HAVING OFFICE AT NO.299,
AMARJYOTI LAYOUT DOMLUR,
BENGALURU- 560071
REPRESENTED BY ITS
MANAGER MR. FAISAL AHMED.

3. AXIS TRUSTEE SERVICES LIMITED
A PRIVATE LIMITED COMPANY
HAVING ITS REGISTERED OFFICE AT
AXIS HOUSE, BOMBAY DYEING MILLS COMPOUND,
PANDURANG BHUDKAR MARG,
MUMBAI - 400025
REPRESENTED BY ITS AUTHORIZED
REPRESENTATIVE MS. RIYA KOTTAM.

4. ANA ARC PRIVATE LIMITED
A PRIVATE LIMITED COMPANY HAVING ITS
REGISTERED OFFICE AT 299,
1ST FLOOR, AMARJYOTHI LAYOUT,
DOMLUR, BENGALURU 560071.
REPRESENTED BY ITS AUTHORIZED
REPRESENTATIVE MR. FIASAL AHMED.

5. RESERVE BANK OF INDIA
REPRESENTED BY ITS
REGIONAL DIRECTOR
NRUPATHUNGA ROAD, OPP ST,
NUNEGUNDLAPALLI,
AMBEDKAR VEEDHI,
BENGALURU, KARNATAKA 560001.

6. SECURITIES AND EXCHANGE BOARD OF INDIA
REPRESENTED BY ITS CHAIRMAN
PLOT NO. C4-A, G BLOCK, BANDRA KURLA
COMPLE, BANDRA (EAST),
MUMBAI 400 051,
MAHARASHTRA, INDIA.

...RESPONDENTS

DR. REDDAIAH MOLAKALA,
S/O. NARAPU REDDY MOLAKALA,
AGED ABOUT 68 YEARS
DIRECTOR OF
AUBERGINE PROPERTIES
PRIVATE LIMITED
A PRIVATE LIMITED COMPANY
HAVING ITS REGISTERED
OFFICE AT NO.11, GC ROAD,
ULSOOR, BANGALORE,
KARNATAKA 560 042

...APPLICANT

(SRI ADITYA SONDHI, SENIOR COUNSEL FOR THE APPLICANT;

SMT. NAYANA TARA B G., ADVOCATE FOR R2, R3 & R4)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO I. DECLARE THAT THE STATUTORY SCHEME UNDER

SECTION 4(2)(1)(D) OF THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 AND FORM-7 DISCLOSURES (ANNEXURE- Q) MANDATES DEPOSIT OF ALL BUYER/ALLOTTEE COLLECTIONS EXCLUSIVELY INTO THE DESIGNATED RERA ESCROW ACCOUNT, AND THAT THE SAID STATUTORY MECHANISM CANNOT BE OVERRIDDEN, MODIFIED OR BYPASSED BY ANY PRIVATE AGREEMENT, ARRANGEMENT, SECURITY STRUCTURE OR CONDITION; II. DECLARE THAT ANY CONDITION IMPOSED BY ANY PERSON OR ENTITY WHATSOEVER, INCLUDING SECURED CREDITORS, TRUSTEES OR FINANCIAL INSTITUTIONS, WHICH IS INCONSISTENT WITH OR HAS THE EFFECT OF DEFEATING THE AFORESAID STATUTORY MANDATE, IS ILLEGAL, ARBITRARY AND UNENFORCEABLE IN LAW (ANNEXURE- Q); III. DIRECT DECLARING THE IMPUGNED NO OBJECTION CERTIFICATES DATED 25.01.2021 (ANNEXURE M-1) AND 27.05.2024 (ANNEXURE M-2), AS ILLEGAL, ARBITRARY AND UNENFORCEABLE IN LAW, AND CONSEQUENTLY DECLARE THAT THE PETITIONERS SHALL NOT BE BOUND BY ANY SUCH UNLAWFUL AND FURTHER DIRECT THAT ANY NO OBJECTION CERTIFICATE REQUIRED FOR SUCH SALE SHALL BE ISSUED WITHOUT IMPOSING CONDITIONS INCONSISTENT WITH THE ACT; IV. WITHOUT PREJUDICE AND IN THE ALTERNATIVE TO PRAYERS (III) ABOVE, ISSUE A WRIT OF MANDAMUS DIRECTING RESPONDENT NO.1 TO

CONSIDER AND ADJUDICATE THE COMPLAINTS, APPEALS AND/OR REPRESENTATIONS FILED BY THE PETITIONERS AND THE ALLOTTEES IN RESPECT OF THE PROJECT WHITEFIELD TOWER, WITHIN A TIME-BOUND PERIOD TO BE FIXED BY THIS HONBLE COURT, AND IN ACCORDANCE WITH THE MANDATE OF SECTION 4(2)(1)(D) OF THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 AND FORM-7 DISCLOSURES, AND TO EXAMINE THE LEGALITY, VALIDITY AND ENFORCEABILITY OF THE IMPUGNED NO OBJECTION CERTIFICATES (ANNEXURES M-1 AND M-2) AND THE CONDITIONS CONTAINED THEREIN, AND TO PASS APPROPRIATE ORDERS AND DIRECTIONS TO ENSURE THAT THE STATUTORY RERA ESCROW MECHANISM IS FULLY COMPLIED WITH AND NOT DEFEATED BY ANY CONDITION OR ARRANGEMENT; V DECLARE THAT ALL AMOUNTS REALISED FROM ALLOTTEES/PURCHASERS IN RESPECT OF THE PROJECT WHITEFIELD TOWER SHALL BE DEPOSITED EXCLUSIVELY INTO THE DESIGNATED 100 PERCENT BUYER COLLECTION RERA ESCROW ACCOUNT BEARING NO. 00760350000085, MAINTAINED IN ACCORDANCE WITH FORM-7 DISCLOSURES AND SECTION 4(2) (1) (D) OF THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016, AND THAT NO PERSON OR ENTITY SHALL INSIST UPON OR EFFECT DIVERSION OF SUCH AMOUNTS INTO ANY TRUSTEE-CONTROLLED, NCD, OR CONSTRUCTION

FINANCE ACCOUNT; VI. DIRECT THAT UPON SUCH DEPOSIT, THE STATUTORY TRANSFER OF 70 PERCENT OF THE COLLECTIONS INTO THE DESIGNATED RERA ESCROW ACCOUNT BEARING NO. 007603500002352 SHALL BE EFFECTED AND PROTECTED, AND THAT UTILISATION OF SUCH FUNDS SHALL BE STRICTLY RESTRICTED TO LAND AND CONSTRUCTION COSTS OF THE PROJECT IN ACCORDANCE WITH STATUTORY CERTIFICATIONS; VII. DIRECT THAT THE REMAINING 30 PERCENT COMPONENT OF SUCH COLLECTIONS, AFTER STATUTORY TRANSFERS, SHALL BE MAINTAINED IN A SEPARATE ESCROW ACCOUNT UNDER THE SUPERVISION OF RESPONDENT NO.1 OR SUCH MECHANISM AS THIS HONBLE COURT DEEMS FIT, AND THAT DISBURSEMENT THEREFROM, INCLUDING TOWARDS RESPONDENTS 2 AND 3, SHALL BE SUBJECT TO FURTHER DIRECTIONS ISSUED UPON EXAMINATION OF THE LEGALITY OF THE IMPUGNED TRANSACTIONS BY THE APPROPRIATE REGULATORY AUTHORITIES AND ETC.

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

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The first petitioner is a '*private limited company'* which at an undisputed point of time was represented by the second petitioner, and allegedly there is a change in the first petitioner's management even prior to the date of this petition. The applicant [*referred to as 'the New Management'*] asserts that the second petitioner is no longer in the management of the first petitioner. The fourth respondent is an *Asset Rebuilding Company*. There are contracts inter se the respondents on pledge of the shares and revocation thereof. The petitioner, while seeking certain declaration as against the Scheme under Section 4[2] of the Real Estate [Regulation and Development] Act, 2016, has impugned '*No Objection Certificates'* issued by the second to fourth respondents.

2. This Court opines that the outcome in the present petition must turn on the following question which rises in the light of the following circumstances

emphasized by Mr. Aditya Sondhi, the learned Senior Counsel who appears on behalf of the new Management, and Ms. Nayana Tara B.G., the learned counsel for the second to fourth respondents. The question considered is:

> *Whether this Court must opine that the second petitioner could represent the first petitioner in the present proceedings and if the second petitioner cannot, the order that should be.*

The proceedings with the NCLT and NCLAT:

3. The third respondent has filed an application under Section 59 of the Companies Act, 2013 with the *NCLT [the National Company Law Tribunal, Bengaluru Bench, Bengaluru]* for certain directions including recording its name as a Member of the first petitioner based on certain shares pledged and to rectify the statutory Register of Shareholders.

The NCLT has considered this application by its order dated 24.07.2025 much before the date of this petition. The NCLT has directed transfer of the shares pledged with the third respondent while directing the third respondent's name to be entered in the Register of Shareholders effective from the date pledge is revoked.

3.1 The second petitioner, as the authorized representative of the first petitioner, has carried this Order in appeal with the National Company Law Appellate Tribunal [NCLAT], and the NCLAT by its Order dated 21.11.2025 has condoned the delay in filing the appeal but observing as follows:

> "*Much was required to be said by us, as to the fairness with which the appellant has carried the proceedings in different legal forum. We intended to take an action, but exclusively owing to the request made by the Senior members of the Bar, we are refraining ourselves from taking any action.*"

3.2 The second petitioner, in the present Memorandum of Petition, has not referred to the NCLT's order or the pending appeal with the NCLAT or what has transpired after the NCLT's order. Of course, this Court must refer to paragraph 29 of the Memorandum of Petition where the second petitioner has referred to the proceedings initiated by the respondents with the NCLT without any further description. After the NCLT's order, Extraordinary General Body Meetings have been convened, Resolutions are passed which indicate, amongst others, that the pledged shares stand transferred to the third respondent and that the applicant is appointed as the new Management resolving to remove the second petitioner. These proceedings have not been called in question.

3.3 These, as stated by both the second to fourth respondents/new Management, is prior to the date of the petition and is seen from the different

annexures filed along with the application filed by the new Management. There is no reference to any of these aspects, and this Court must also observe that the second petitioner is silent about having initiated any proceedings raising a dispute over these Resolutions. These must be fatal and this undermines the second petitioner's right to continue the present petition on behalf of the first petitioner.

The finding in O.S. No.166/2025

4. The New Management has filed an application to substitute itself as the Management which could represent the first petitioner in a commercial suit in O.S. No.166/2025, which is filed by a third-party entity. The second petitioner has consented to this application. The Commercial Court, while considering the question whether the Advocate for the erstwhile Management of the defendant-company is authorized to file *vakalath,* appear and file written statement on behalf of the defendant-

company, has opined that the *vakalath* filed by the authorized signatory on behalf of the New Management would be valid and only the New management can represent the first petitioner in the suit. It is not gainsaid that this order has attained finality. This also undermines the second petitioner's right to represent the first petitioner.

The opinion in W.P. No.20001/2026

5. The second petitioner representing the first petitioner has also filed a private complaint. The fourth respondent has impugned this complaint in the writ petition in W.P. No.20001/2026. In these proceedings, the learned counsel who is now on record for the second petitioner and another counsel for the first petitioner as the new Management, are heard to decide on *whether the private complaint must continue with the new Management filing an affidavit stating that it does not propose to prosecute the private complaint*. This Court has disposed of the writ

petition in W.P. No.20001/2026 by the Order dated 06.07.2026 observing that the complaint is not by an individual but by a Company whose Management has undergone change accepting the affidavit filed by the new Management and quashed the private complaint.

6. The question for consideration must necessarily be answered in the aforesaid circumstances. These facts and circumstances ***[i]*** bespeak of suppression, ***[ii]*** do not indicate a *locus* to sustain a cause which is strenuously contested both on behalf of the new Management and the second to fourth respondents and ***[iii]*** the findings in the suit in O.S. No.166/2025 and in W.P. No.20001/2026 will be conclusive insofar as the present proceedings. Further, this Court, in the present proceedings, when there is another Forum, is not persuaded to decide on the issues between the second petitioner and the new Management. The question framed is answered

accordingly, and with the applicant being permitted to withdraw the petition.

As such, the petition stands ***disposed of*** as withdrawn allowing the application filed.

Sd/-
(B M SHYAM PRASAD)
JUDGE

AN/-