



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO.37764/2025 (GM-RES)

BETWEEN:

M/S DAMDEN PROPERTIES
A PARTNERSHIP FIRM REGD. UNDER THE
INDIAN PARTNERSHIP ACT, 1932
HAVING ITS OFFICE AT:
DAMDEN YERRA, 2ND CROSS
VENKATESHWARA LAYOUT
THAVEREKERE MAIN ROAD
KORAMANGALA, BENGALURU - 560 029

REPRESENTED BY ONE OF ITS PARTNERS
MR. DAMLA T MATHEW
SON OF MR. THOMAS T M
AGED ABOUT 58 YEARS
R/AT. DAMDEN YERRA
2ND CROSS, VENKATESHWARA LAYOUT
THAVEREKERE MAIN ROAD
KORAMANGALA, BENGALURU - 560 029

...PETITIONER

(BY SRI. BALA NIKIT., ADVOCATE)

AND:

1. MR. SRIRAMIAH B
S/O. LATE BIDDAPPA
AGED ABOUT 71 YEARS
BIDDARAGUPPE VILLAGE
ATTIBELE HOBLI, ANEKAL TALUK
BENGALURU DISTRICT





2. MR. S.D. PARMAJ
FORMER DISTRICT JUDGE (RETD.)
ARBITRATION AND CONCILIATION CENTRE
KHANIJA BHAVAN, EAST WING 3RD FLOOR
BENGALURU

...RESPONDENTS

(BY SRI. MITHUN G A., ADVOCATE R1)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE IMPUGNED ORDER DATED 26/11/2025 ON IA NO.4 ANNEXURE - A UNDER SECTION 23 (3) OF THE ARBITRATION AND CONCILIATION ACT, 1996 IN AC NO.397/2023 PASSED BY SOLE ARBITRATOR MR. S.D. PARMAJ, FORMER DISTRICT JUDGE (2ND RESPONDENT HEREIN), CURRENTLY PENDING BEFORE THE ARBITRATION AND CONCILIATION CENTRE (DOMESTIC AND INTERNATIONAL), KHANIJA BHAVAN, BENGALURU, TO THE EXTENT OF DIRECTING THE PETITIONER HEREIN TO DEPOSIT THE ENTIRE FEES AS REQUIRED UNDER LAW; B. DIRECT THE SUBSTITUTION OF THE HON BLE ARBITRATOR IN AC NO.397/2023, CURRENTLY PENDING BEFORE THE ARBITRATION AND CONCILIATION CENTRE (DOMESTIC AND INTERNATIONAL), KHANIJA BHAVAN, BENGALURU.

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

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



ORAL ORDER

The petitioner and the first respondent are parties to the arbitral proceedings with this Court appointing the learned Arbitrator under Section 11 of the Arbitration and Conciliation Act in petition in CMP No.75/2023. This petition is disposed of on 01.08.2023. The first respondent is the claimant in the arbitral proceedings, and the petitioner is the opponent. The petitioner is aggrieved by the Tribunal's order dated 26.11.2025 and also seeks substitution of the learned Arbitrator. The controversy relates to the deposit of arbitration fees/costs.

2. It is seen from the impugned order that the petitioner's application to make a counterclaim is allowed but on conditions such as that the petitioner must deposit the entire arbitration fee on the counterclaim within 15 days. The learned Arbitrator



has observed that the application for leave to file the counterclaim would stand automatically rejected if there is a failure to deposit the fees/ costs. Subsequently, on 10.12.2025, the learned Arbitrator has recorded that the petitioner has not complied with the impugned order dated 26.11.2025 and it is constrained to list the dispute for the claimant's evidence. In effect, the learned Arbitrator has reiterated the rejection of the petitioner's application allowing the counter claim.

3. Mr. Bala Nikit, the learned counsel for the petitioner, and Mr. Mithun G.A., the learned counsel who is permitted to enter appearance for the first respondent, are heard. Mr. Bala Nikit is categorical, when queried, that the learned Arbitrator's order dated 26.11.2025 is in the backdrop of the respondents' specific case that the application [for leave to file counterclaim] could be allowed if the onus of paying the arbitration fee on such counterclaim is on the petitioner.



4. Mr. Mithun G.A. proposes to contest this assertion, but when queried in the light of Rule 28 of the Arbitration Centre - Karnataka (Domestic and International) Rules, 2012 [for short, '*the Rules, 2012*']¹, the learned counsel submits that this Court could consider disposing of the petition observing that the application for counterclaim, which is allowed by the impugned order, would remain notwithstanding the learned Arbitrator's next order dated 10.12.2025 giving some reasonable time to the petitioner to deposit the arbitration fee and costs on the counterclaim subject to the apportionment of the costs as part of the final orders.

¹*This Rule stipulates that if a party neglects or refuses to make the deposit of the arbitration fee, the person who raises a claim [even as a counterclaim] must deposit lest the counterclaim be ignored. The Rule reads as under:*

When one of the parties neglects or refuses to make the deposit, the Director may require such deposit, whether in relation to a Claim or a Counter-claim, to be made by the other Party to the dispute (Claimant or Respondent as the case may be) and costs so deposited shall follow the cause.



5. This Court is of the view that the controversy as regards who should pay the arbitration fee/costs on the counterclaim will not survive in view of Rule 28(3) of the Rules, 2012 and the petitioner's willingness to pay the entire fees/costs subject to final orders. This Court cannot entertain the request for substitution of the arbitrator as a matter that should be considered in properly instituted proceedings. The petitioner is reserved liberty in this regard. Hence, the petition stands disposed of holding that the counterclaim shall be treated as part of *the dispute* for adjudication permitting the petitioner to deposit the entire arbitration fee/costs in terms of the Rules, 2012.

6. The Director of the Arbitration Center shall inform the petitioner about the amount that has to be deposited, and the petitioner shall deposit this amount within two [2] weeks from the date of receipt of a certified copy of this order. It is needless to



observe that the first respondent will be at liberty to file a rejoinder, and such rejoinder shall be filed within two [2] months.

Sd/-
(B M SHYAM PRASAD)
JUDGE

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List No.: 2 Sl No.: 1