

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 21<sup>ST</sup> DAY OF APRIL, 2021**

**PRESENT**

**THE HON'BLE MR. ABHAY S. OKA, CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ**

**COMAP. NO.67 OF 2021**

**BETWEEN**

1. SRI. M. DEVENDRA  
S/O LATE U. MUNIREDDY  
AGED ABOUT 59 YEARS  
RESIDING AT NO.2451, 17<sup>TH</sup> 'E' CROSS  
9<sup>TH</sup> MAIN, B.S.K. 2<sup>ND</sup> STAGE  
BANGALORE-560070

2. SRI. GOVINDAPPA  
S/O K.M. NAGAPPA  
AGED ABOUT 51 YEARS  
R/AT NO.8/9, 10<sup>TH</sup> CROSS  
S.R.LAY-OUT, K.R.PURAM  
BASAVANPURA MAIN ROAD  
BENGALURU-560036

... APPELLANTS

(BY SRI. S.P. SHANKAR, SENIOR COUNSEL FOR  
SRI. VASANTHAPPA, ADVOCATE OF GNANAMURTHY  
& ASSOCIATES-PH)

**AND:**

1. SRI. AMARNATHREDDY  
S/O LATE RAMAKRISHNAREDDY  
AGED ABOUT 54 YEARS  
KEI AVATHI VILLAGE, THURLAPALLI POST  
PEDDA PANJANI MANDAL  
PRESENTLY AT R/AT PALAMANER  
CHITTOOR DISTRICT-517408

2. M/S TAAPSEE PROJECT  
REGISTERED PARTNERSHIP FIRM  
HAVING OFFICE AT NO.230  
GROUND FLOOR, 13<sup>TH</sup> CROSS  
INDIRANAGAR 2<sup>ND</sup> STAGE

BENGALURU-560038  
 REPRESENTED BY ITS MANAGING  
 PARTNER SRI. HARSHA REDDY

3. SRI. HARSHA REDDY  
 S/O K. VINOD REDDY  
 AGED ABOUT 36 YEARS  
 R/AT NO.230, GROUND FLOOR  
 13<sup>TH</sup> CROSS, INDIRANAGAR 2<sup>ND</sup> STAGE  
 BENGALURU-560038
4. SMT. MEGHANA CHANDRA REDDY  
 D/O NARAYANA CHANDRA REDDY  
 AGED ABOUT 26 YEARS  
 R/ATNO.17, 30<sup>TH</sup> MAIN ROAD  
 BTM LAYOUT, 2<sup>ND</sup> STAGE  
 BENGALURU-560076

... RESPONDENTS

THIS COMAP IS FILED UNDER SECTION 13(-A) OF COMMERCIAL COURTS ACT, 2015 PRAYING TO CALL FOR THE ENTIRE RECORDS ON THE FILE OF THE LXXXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU IN COM.O.S.NO.405/2020(CCH-84) AND SET ASIDE THE ORDER DATED 20.1.2021 PASSED BY THE LXXXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY ON I.A.NO.I, IN COM. O.S.NO.405/2020 (CCH-84) BY ALLOWING THE APPLICATION FILED UNDER ORDER XXXIX RULE 1 AND 2 OF CPC AND PASS SUCH OTHER ORDERS AS THIS HON'BLE COURT DEEMS FIT IN THE CIRCUMSTANCES OF THE CASE INCLUDING THE COST OF THE PROCEEDINGS IN THE ENDS OF JUSTICE.

THIS COMAP COMING ON FOR ADMISSION THIS DAY, CHIEF JUSTICE MADE THE FOLLOWING:

### **JUDGMENT**

The learned counsel appearing for the appellant, on instructions, states that the appellant desires to apply for amendment of the plaint for incorporating the additional reliefs. He states that he may be permitted to withdraw the appeal with liberty to file a fresh application for interim injunction after the amendment is allowed. He also pointed out that I.A. No.2 has

been filed by the appellant under Rule 5 of Order XXXVIII of Code of Civil Procedure, 1908, for attachment before the Judgment and the said application is pending as notice has been issued thereon. The respondents are represented in the Suit by an advocate. If the service is not effected, notice of the said application can be served on the advocate representing the respondents.

2. Accordingly, the appeal is disposed of as withdrawn with liberty as prayed. It will be always open to the appellant to request the Commercial Court to take up the application I.A. No.2 on priority basis.

3. All contentions on merit are kept open.

4. The pending interlocutory application does not survive and is accordingly disposed of.

**Sd/-  
CHIEF JUSTICE**

**Sd/-  
JUDGE**

In