

20 CS (COMM.) 97/25

RAM BILASH AGGARWAL SOLE PROPRIETOR OF MS  
SHIVAM MINERAL SUPPLIERS v. M/S. NKG  
INFRASTRUCTURE LTD.

23.04.2026 (At 11:42 a.m.)

Present: Sh. Praveen Kumar Aggarwal, ld. counsel for  
plaintiff.  
Sh. Mehul Jain, ld. counsel for defendant.

1. Submissions heard on application under Order VII Rule 11 CPC.  
In nut-shell, the contention of applicant/defendant is that plaintiff has suppressed the facts. Plaintiff has not projected the correct facts before the court and even the suit amount as claimed in the plaint, is based on incorrect calculation. Application further mentions that the suit is barred by S.18 MSMED Act.
2. Ld. counsel for defendant referred to order passed by NCLT, which is so referred in the plaint, to submit that NCLT had recorded the payments made by defendant to plaintiff to satisfaction of claim of the plaintiff, except for interest component for which plaintiff was granted liberty to take his remedies.
3. I have considered the contention of ld. counsel for defendant. The settled law under Order VII Rule 11 CPC is that for the purpose of finding cause of action, the court has to only look into the averments made in the plaint. This is not the stage to look into and consider any fact coming from the side of defendant. Not only this, the averments/facts pleaded in the plaint are to be taken on their face value without analysing the credibility or probability of the same. Therefore, as far as arguments of defendant that plaintiff has suppressed/hidden material facts, and has presented wrong facts and wrong calculations, are concerned,

such kind of plea cannot be entertained within the ambit of Section VII Rule 11 CPC.

4. Now, as far as bar u/s. 18 of MSMED Act is concerned, Section 18 of MSME Act provides as under: -

*"18. Reference to Micro and Small Enterprises Facilitation Council.— (1) Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.*

*(2) On receipt of a reference under sub-section (1), the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply to such a dispute as if the conciliation was initiated under Part III of that Act.*

*(3) Where the conciliation initiated under sub-section (2) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer to it any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (1) of section 7 of that Act.*

*(4) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternate dispute resolution services shall have jurisdiction to act as an Arbitrator or Conciliator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.*

*(5) Every reference made under this section shall be decided within a period of ninety days from the date of making such a reference."*

5. From the language of afore-said provision, one cannot find any bar being created against filing of any civil suit. The law in respect of Section 9 CPC is well established that unless there is explicit bar, same is not to be inferred on the basis of any other language. Therefore, I do not find any merit even in this objection of the defendant.
6. Resultantly, I find that this application is completely devoid of any merit and hence, same is dismissed with cost of Rs.5,000/- to be paid by defendant to the plaintiff.
7. Put up for framing of issue and case management hearing on 20.07.2026.

(Pulastya Pramachala)  
District Judge (Commercial Court-01),  
Patiala House Courts Complex,  
New Delhi/23.04.2026