

T.P. (C) No.9/2026
Advani & Co. Vs. Man Industries

24.03.2026

Present : Sh. Nakul Gandhi and Sh. Gurdeep Singh, Ld. Counsels for the applicant/petitioner.

Sh. Rajesh Raina, Ld. Counsel for the respondent, joins through VC. Sh. Shubham Sharma, Ld. Counsel present in the court. Files memo of appearance. Same is taken on record.

This petition U/s.24(1), (2) and (5) of the Code of Civil Procedure, 1908 has been filed for seeking transfer of CS (Comm.) No.324/2022 titled as M/s. Advani & Co. Vs. M/s. Man Industries from Commercial Court to a normal Civil Court on the premise that under bonafide belief the suit was filed before a Commercial Court. However, it was revealed subsequently that the suit regarding recovery of lawyer fee could not be agitated before a Commercial Court and should have been filed before a normal Civil Court. On that basis, this application has been filed. The petitioner has also prayed that as the suit has already reached at the final stage, therefore, a direction may be given to the transferee court to proceed with the case from the stage at which it is pending before a Commercial Court. In support of his contention, he has relied upon the judgment passed by Hon'ble High Court of Delhi in **CM (M) 3824/2024 titled as Rakesh Kumar Vs. Saraswati Devi, date of decision 01.04.2025.**

Ld. Counsel for the respondent submits that he has no objection if suit bearing CS (Comm.) No.324/2022 titled as M/s. Advani & Co. Vs. M/s. Man Industries is transferred to a Civil Court as the dispute in the said suit is pertaining to recovery of lawyer fee, which does not fall within the ambit of Commercial Court in terms of the judgment passed by the Hon'ble High Court of Delhi.

I have heard Ld. Counsels of both the parties and perused the application as well as the judgment relied upon by the petitioner.

The first question for consideration is whether the suit pending before a Commercial Court can be transferred to a non-commercial court by Principal District & Sessions Judge by taking recourse of Section 24 of CPC?

Ld. Counsel for the petitioner in this regard has also relied upon the judgment passed by Hon'ble High Court of Delhi in **P&M Movies Private Limited Vs. Sapna [(2022) SCC Online Del 4480]**. Para 20 of the said judgment is relevant for this issue, which is reproduced as under :

“20. The reasoning of the aforesaid orders would equally be applicable to the District Courts. If the Commercial Court comes to a conclusion that a suit has wrongly been filed as a commercial matter and the subject matter thereof is not a commercial dispute or vice versa, that the suit has been filed as an ordinary suit when it is a commercial suit, the correct course to follow would be to

refer the suit to the Principal District & Sessions Judge for allocation to a court of competent jurisdiction, which is what was done in the present case. There is no merit in the submission of the review petitioner that the Commercial Court ought to have returned the suit under provisions of Order VII Rule 10 of the CPC for it to have been filed again as an ordinary suit. Axiomatically, there is no merit in the submission that the earlier orders passed by the Commercial Court before the transfer of the suit were without jurisdiction”.

The observation made by Hon’ble High Court of Delhi in the said judgment thus makes it amply clear that a suit pending before a Commercial Court can be transferred to non-commercial court by taking the recourse U/s.24 of CPC.

The present suit is pending before a Commercial Court and as per the order dated 26.04.2025, same was listed for final arguments. If the case is transferred from a Commercial Court to non-commercial court and the Civil Court starts denovo trial, then it will not only cause inconvenience to both the parties but would further delay the disposal of the case.

The Hon’ble High Court of Delhi in **CM (M) 3824/2024 titled as Rakesh Kumar Vs. Saraswati Devi (Supra)** dealt with such situation and has held in para No.18 of the said order, which is reproduced as under :

“18. This Court has sufficient power under Section 24 of the Code to transfer the suit to the court of competent jurisdiction. Since the

case before the trial court has already reached the stage of defendant's evidence, denovo trial upon the return of the plaint would further delay the plaintiff's case and would cause serious prejudice to the plaintiff, interest of justice therefore demands that in the exercise of powers vested in this Court under Section 24 of the Code, the suit be transferred from the court of learned District Judge-05, East, Karkardooma to the court of learned Principal District & Sessions Judge, Shahdara, Karkardooma, where the suit property is situated with direction that the case be tried from the stage it is transferred from the transferor court".

In view of the above facts and circumstances, the application filed by the petitioner U/s.24 of CPC is allowed. CS (Comm.) No.324/2022 titled as "M/s. Advani & Co. Vs. M/s. Man Industries" is withdrawn from the court of Ms. Deepali Sharma, Ld. District Judge (Commercial Court)-03, PHC, NDD, and is transferred to the court of Sh. Dharmender Rana, Ld. District Judge-01, PHC, NDD for **28.03.2026 at 02.00 pm** to deal with the same in accordance with law.

The transferee court shall proceed with the case from the stage at which it was pending before a Commercial Court. With these observations, the application is disposed of.

Both the parties are directed to appear before the court of Sh. Dharmender Rana, Ld. District Judge-01, PHC, NDD on **28.03.2026 at 02.00 pm**.

Ahlmad concerned is directed to send the file before the transferee court forthwith. Copy of this order be sent to the courts concerned.

File be consigned to record room after due compliance.

(Pitamber Dutt)
Principal District & Sessions Judge
New Delhi District
Patiala House Courts/ND/24.03.2026