

21 CS (COMM.) 945/25

**HERO INVESTCORP PVT LTD AND ANR Vs. ASHOK
KUMAR (JOHN DOE)**

16.12.2025 (At 1:27 PM)

Present : Sh. Kunal Khanna and Sh. Madhav Anand, Ld.

Counsels for the plaintiff.

One application under Order VI Rule 17 CPC with amended plaint and fresh Statement of Truth has been filed so as to rectify the omissions and errors as pointed out yesterday. A fresh application under Order XXVI Rule 9 CPC along with amended memo of parties has also been filed so as to give maximum available information about addresses of defendant.

Submissions heard on exparte relief claimed by the plaintiff.

Put up for orders at 4.00pm.

**Pulastya Pramachala
District Judge (Commercial Court)-01
Patiala House Court, New Delhi.
16.12.2025**

16.12.2025 (At 4:30PM)

Present : None.

In the case of M/s Dhanbad Fuels Private Limited
Vs. Union Of India & Anr. 2025 INSC 696, Hon'ble Supreme
Court has held as under: -

*"In light of the aforesaid discussion, we summarise our
findings as under:*

- a. The decision of this Court in Patil Automation (supra) lays down the correct position of law as regards Section 12A of the 2015 Act by holding it to be mandatory in nature.*
- b. As held in paragraph 104 of the decision in Patil Automation (supra), the declaration of the mandatory nature of Section 12A of the 2015 Act relates back to the date of the Amending Act.*
- c. As held in paragraph 113.1 of the decision in Patil Automation (supra), any suit which is instituted under the 2015 Act without complying with Section 12A is liable to be rejected under Order VII Rule 11. However, this declaration applies prospectively to suits instituted on or after 20.08.2022.*
- d. A suit which contemplates an urgent interim relief may be filed under the 2015 Act without first resorting to mediation as prescribed under Section 12A of the 2015 Act.*
- e. Unlike Section 80(2) of the CPC, leave of the court is not required to be obtained before filing a suit without complying with Section 12A of the 2015 Act.*
- f. The test for “urgent interim relief” is if on an examination of the nature and the subject-matter of the suit and the cause of action, the prayer of urgent interim relief by the plaintiff could be said to be contemplable when the matter is seen from the standpoint of the plaintiff.*
- g. Courts must also be wary of the fact that the urgent interim relief must not be merely an unfounded excuse by the plaintiff to bypass the mandatory requirement of Section 12A of the 2015 Act.*
- h. Even if the urgent interim relief ultimately comes to be denied, the suit of the plaintiff may be proceeded with without compliance with Section 12A if the test for “urgent interim relief” is satisfied notwithstanding the actual outcome on merits.*
- i. Suits instituted without complying with Section 12A of the 2015 Act prior to 20.08.2022 cannot be rejected under Order VII Rule 11 on the ground of non-compliance with Section 12A unless they fall within the exceptions stipulated in paragraph 113.2 and 113.3 of the decision in Patil Automation (supra).*
- j. In suits instituted without complying with Section 12A of the 2015 Act prior to 20.08.2022 which are pending adjudication*

before the trial court, the court shall keep the suit in abeyance and refer the parties to time-bound mediation in accordance with Section 12A of the 2015 Act if an objection is raised by the defendant by filing an application under Order VII Rule 11, or in cases where any of the parties expresses an intent to resolve the dispute by mediation.”

2. In the present suit, plaintiff has made prayer for urgent relief in the nature of permanent injunction with an application seeking temporary injunction. Therefore, compliance of S.12-A is dispensed with.

3. Vide my separate orders of even date, announced in the open court today, I have passed ex-parte injunction order and have also appointed one Local Commissioner. Copy of orders be provided dasti to ld. counsel for plaintiff.

4. A copy of said order be also sent to the Local Commissioner, along with a court notice, seeking consent and confirmation of acceptance of the assigned work within two days. The email ID of this Court be mentioned over that Court notice with endorsement that consent and confirmation can be communicated through email as well.

5. Compliance report under Order XXXIX Rule 3 CPC shall be filed by the plaintiff within 24 hours of completion of the execution of the commission, in the form of affidavit.

6. Summons for settlement of issues be issued to the defendant by all permissible modes i.e. DTDC courier/E-mail/WhatsApp on filing of PF and soft copy of complete paper book of the suit in PDF format. For service through electronic mode i.e. email ID and WhatsApp number, plaintiff to file affidavit with respect to the correctness of the mobile number and email id. Process be

filed within seven working days. Copy of the plaint, along with the entire paper book shall be served upon the defendant. The summons shall indicate that the written statement must be filed within thirty days from the date of receipt of the summons, and that alongwith written statement, defendant shall also file affidavit/statement of admission/denial of the documents filed by the plaintiffs as per Order XI CPC as amended by the Commercial Courts Act, 2015. Advance copy of the same shall be supplied to plaintiff or his counsel.

7. Put up this matter for report of service/further proceedings on 20.01.2026.

8. Till further directions, name of this case shall remain mask in the cause-list/website. Copy of this order be sent to Incharge, Computer Branch, Patiala House Courts, New Delhi for compliance.

Pulastya Pramachala
District Judge (Commercial Court)-01
Patiala House Court, New Delhi.
16.12.2025