

08.07.2026

Present : Ld. Counsel for plaintiff.
Sh. Amitabh Chaturvedi and Sh. Mohammad Nausheen Samar,
Ld. Counsels for defendant.

ORDER

1. Vide this order, the present court shall decide the application under Order VII Rule 10 r/w Section 151 r/w Order XIV Rule 2 CPC for return of plaint and/or framing of preliminary issue w.r.t lack of jurisdiction of this Hon'ble Court as it is ousted by the Commercial Courts Act filed by the defendant and application under Order VI Rule 17 CPC for amendment of application under Order VII Rule 10 CPC filed by the defendant.
2. Arguments heard on both the application and record has also been carefully perused.
3. By way of the application under Order VI Rule 17 CPC, the defendant seeks amendment of the pending application under Order VII Rule 10 CPC by incorporating certain additional pleadings based on the averments already made in the plaint and the documents already available on record. It is submitted that the proposed amendment is necessary for proper adjudication of the issue regarding jurisdiction and would assist the Court in deciding the controversy effectively.
4. The present court is of the opinion that the proposed amendment does not change the nature of the original application. It only elaborates the existing plea regarding jurisdiction and is based upon the pleadings already on record. No prejudice shall be caused to the plaintiff if the amendment is allowed.

5. Accordingly, **the application under Order VI Rule 17 read with Section 151 CPC is allowed. The amended application under Order VII Rule 10 CPC is taken on record.**
6. The present court shall now consider the application under Order VII Rule 10 CPC. It is submitted on behalf of the defendant that from the averments made in the plaint itself, it is apparent that the suit property is being used for commercial purposes and, therefore, the dispute falls within the ambit of the Commercial Courts Act, 2015. It is further submitted that the plaint ought to have been presented before the competent Commercial Court and not before the ordinary Civil Court.
7. On the other hand, it is argued by the Ld. Counsel for plaintiff that the present suit has been filed for possession, mandatory injunction and recovery of damages on account of breach of the terms and conditions of the lease deed. It is argued that the commercial use of the suit property by the defendant is merely one of the breaches alleged against the defendant and does not convert the dispute into a commercial dispute within the meaning of the Commercial Courts Act, 2015. It is, therefore, prayed that the application be dismissed.
8. On perusal of the plaint and the material available on record, it is evident that the plaintiff herself has specifically pleaded that the defendant has been using the suit property for commercial purposes.

The relevant averments contained in the plaint are mentioned below:

“5. That the Plaintiff came to know that the Defendant is unauthorizedly using the said premises for commercial purposes under the name “Orient International” with GST registration, whereas the same was given for residential purposes contrary to the terms and conditions of the lease and contrary to the law. The Defendant has also made unauthorized structure in the premises.

6. The Defendant was using the house as a factory and office, in spite of Plaintiff s repeated requests not to do so, as the

lease for that the premises was for residential Purposes. The Defendant always said that the work is temporary, and that the Defendant was looking for a place but failed to shift the factory and office to another place.

7. The Defendant had also put up a shed in the compound in the backyard and taken a commercial electricity connection in her own name without taking any permission. Plaintiff also understands that Defendant has broken down the bathroom fittings adjacent to the bedroom and is using both areas as her office. The marble driveway is completely broken and sunk due to the movement of heavy trucks bringing raw products and finished products taking out. There is other damage outside and inside.”

9. A plain reading of the above averments shows that the plaintiff herself has alleged that the defendant has been using the premises as a factory and office under a commercial establishment having GST registration, has obtained a commercial electricity connection and has been carrying out commercial activities involving the movement of heavy trucks. Thus, the plaintiff's own pleadings disclose that the dispute arises out of the use of the leased premises for commercial purposes. It is not intended use but the actual use that makes the dispute commercial in nature for the purpose of Commercial Courts Act.
10. Section 2(1)(c)(vii) of the Commercial Courts Act, 2015 includes within the definition of a "commercial dispute" disputes arising out of agreements relating to immovable property used exclusively in trade or commerce. Further, Explanation (a) appended to Section 2(1)(c) clarifies that a commercial dispute shall not cease to be a commercial dispute merely because it also involves recovery of immovable property or realization of monies out of such property.
11. In the present case, the plaintiff has herself pleaded that the suit property has been used by the defendant for commercial purposes and the allegations regarding unauthorized commercial use constitute an

integral part of the cause of action pleaded in the plaint. Consequently, the dispute falls within the ambit of a commercial dispute as contemplated under Section 2(1)(c)(vii) of the Commercial Courts Act, 2015.

12. Once the dispute is found to be a commercial dispute, the jurisdiction to entertain the same vests in the competent Commercial Court, subject to fulfillment of the statutory requirements under the Commercial Courts Act, 2015. Therefore, the present court, exercising ordinary civil jurisdiction, lacks the jurisdiction to entertain and try the present suit.
13. **In view of the aforesaid discussion, the application under Order VII Rule 10 read with Section 151 CPC is allowed.** The plaint is liable to be returned for presentation before the Court of competent jurisdiction. Accordingly, the plaint, court fee and original documents etc. are directed to be returned, to be filed in the court of Competent jurisdiction.
14. Ahlmad is directed to issue a certificate under Order VII Rule 10A of the Code of Civil Procedure, 1908, to the plaintiff in this respect and to return the plaint along with court fee and original documents as well as copy of this order, after making necessary endorsement under Order 7 Rule 10(2) CPC. This order along with photocopies of the plaint and documents as well as court fee be retained on judicial record.

File be consigned to record room after completion of necessary formalities.

(Ambika Singh)
District Judge-01, South
Saket Court, New Delhi
08.07.2026