

**IN THE COURT OF SHRI RAJ KUMAR: DISTRICT JUDGE,
(COMMERCIAL COURT)-01,
DWARKA COURTS (S/W): DELHI.**

CS (COMM) No. 300/2025

In the matter of :

SUCHITA SINGH

.....PLAINTIFF

versus

KOMAL PRASAD

.....DEFENDANT

25.03.2026

ORDER

1. Vide this order, I shall dispose off the two applications, one under Section 10 of the CPC and the other under Order VII Rule 11 of CPC filed by the defendant.
2. Both these applications are being taken up for disposal vide this common order as the controversy involved in both the applications is verbatim the same.

**CASE OF THE DEFENDANT/APPLICANT AS CONTAINED IN
THE ABOVE SAID APPLICATIONS**

3. The defendant/applicant namely Sh. Komal Prasad, in the application, under Section 10 of the CPC, has stated that the present suit instituted by the plaintiff is not maintainable as the other suit bearing no. C.S (COMM) No. 120/2025 titled as Komal Prasad Vs. Suchita Singh, instituted by the defendant herein against the plaintiff is already pending disposal before the Ld. District Judge, Commercial Court-02, District Shahdara, Karkardooma Courts, Delhi. It has been further stated that the plaintiff herein was very well aware

about the pendency of the above said suit before the Ld. DJ (Commercial Court)-02, District Shahdara, KKD Courts, Delhi prior to the institution of the present suit.

4. The defendant, in the application under Section 10 of the CPC, has further stated that pre-institution mediation was initiated by the defendant prior to the institution of the suit bearing no. 120/2025 before DLSA, District Shahdara, KKD Courts, Delhi but despite the service of the notice from DLSA, District Shahdara, KKD Courts, Delhi upon the plaintiff herein, the plaintiff failed to appear and failed to participate in the proceedings resulting into the issuance of a non-starter report by the above stated authority.
5. The defendant, in the said application under Section 10 of the CPC, has further stated that the plaintiff herein, has obtained a non-starter report dated 15.04.2025 because during the proceedings of pre-institution mediation before DLSA, South-West District, Dwarka Courts, Delhi, the defendant had already disclosed in writing about the pendency of the suit no. 120/2025 before the Ld. DJ (Commercial Court)-02, District Shahdara, KKD Courts, Delhi. It has been further stated that the present suit is subsequent to the suit of the defendant, the present suit is based on the same documents which are the subject matter of the suit bearing no. 120/2025 and as such, the present suit is not maintainable under Section 10 of CPC.
6. The defendant, in the application under Section 10 of the CPC, has further stated that the plaintiff herein has concealed the material information from this Court about the pendency

of the suit bearing no. 120/2025. It has been further stated that the plaintiff has concealed the information relating to the payment, which has been acknowledged by the plaintiff under his signatures and in his own handwriting. It has been further stated that from the calculation of the payment acknowledged by the plaintiff himself, it is apparent that there is no liability of payment against the defendant herein and in fact, the defendant is entitled to seek the recovery of the amount of Rs. 10,28,550/-, which is the subject matter of the suit bearing no. 120/2025.

7. The defendant, in the said application under Section 10 of the CPC, has further stated that the plaintiff has not placed on record the copies of the receipt of cash payment received by him and as such, the suit of the plaintiff deserves to be rejected as the same is without any cause of action. It has been prayed that the proceedings of the present suit be stayed under Section 10 of the CPC.
8. The defendant, in the application under Order VII Rule 11 of the CPC has cited the very same grounds, which have been pleaded by the defendant in the above said application under Section 10 of the CPC and has prayed that the plaint be rejected under Order VII Rule 11 of the CPC.

CASE OF THE PLAINTIFF

9. The plaintiff has preferred not to file any replies to the above said two applications and the plaintiff has straightway addressed the arguments on the above said two applications, without filing any replies thereto.

10. The sum and substance of the submissions of the Ld. Counsel for the plaintiff is to the effect that the other suit bearing no. 120/2025, instituted by the defendant herein, which is pending disposal before the Ld. DJ (Commercial Court)-02, District Shahdara, KKD Courts, Delhi, is pertaining to a different relief altogether. It has been argued that the above said suit bearing no. 120/2025, the defendant herein has sought for the compensation to the extent of Rs. 10 Lacs on account of the loss allegedly done by the plaintiff herein to the goodwill and reputation of the defendant herein, whereas, the present suit has been instituted by the plaintiff herein for recovery of the outstanding amount of Rs. 8,05,350/- on account of the business transactions in between the plaintiff and the defendant. It has been argued that neither Section 10 of the CPC nor the provisions under Order VII Rule 11 of CPC are applicable to the facts and circumstances of the present case. It has been prayed by the plaintiff that both the above said applications instituted by the defendant herein be dismissed.

11. I have carefully gone through the entire material available on record and heard the rival submissions of both the Ld. Counsels for the parties.

ANALYSIS & FINDINGS

12. Prior to discussing the above said two applications on merits, it becomes imperative to have a glance at the pleadings of the parties as contained in the present suit bearing CS (COMM) No. 300/2025 titled as Suchita Singh Vs. Komal Prasad and the pleadings of the parties as contained in the suit bearing

No. 120/2025 titled as Komal Prasad Vs. Smt. Suchita Singh, which is already pending disposal before the Ld. DJ (Commercial Court)-02, District Shahdara, KKD Courts, Delhi.

13. Perusal of the plaint filed by the plaintiff in the present suit bearing CS (COMM) No. 300/2025 reveals that the plaintiff Smt. Suchita Singh has instituted the present suit for recovery of the amount of Rs. 8,05,350/- on the ground that the plaintiff is the proprietor of M/s S.S. Knitwear having its address at D-1/49, Peer Baba Road, Om Vihar, Phase-5, Uttam Nagar, New Delhi. It has been further stated that the defendant was one of the customers of the plaintiff and the defendant used to come to the work place of the plaintiff for the purposes of purchasing the sweater and the knitwears. It has been further stated that the defendant used to place the orders upon the plaintiff at the above said address of the plaintiff, situated within the jurisdiction of this Court and the plaintiff used to supply the goods to the defendant as per the satisfaction of the defendant from time to time. The plaintiff has alleged that as per the ledger account maintained by the plaintiff, a sum of Rs. 6,19,500/- became payable by the defendant as on 22.09.2023 as the defendant had made the last payment of Rs. 50,000/- on 22.09.2023. The plaintiff has calculated the interest @ 18% per annum on the above said amount of Rs. 6,19,500/- from 22.09.2023 till 21.05.2025 to the extent of Rs. 1,85,850/- and thus, the plaintiff has claimed the total amount of Rs. 8,05,350/- from the defendant in the present suit.

14. Written statement has been filed on record by the defendant in the present suit bearing no. CS (COMM) No. 300/2025 admitting the business transactions but the defendant has taken the stand that he has already made the payment to the plaintiff in the account of the plaintiff as well as in cash and the payment has been acknowledged by the plaintiff under his own signatures and against the signatures of his father Sh. Yogesh Kumar. The defendant has alleged that in fact, the plaintiff has received the excess payment and the defendant has already instituted a suit bearing no. 120/2025 against the plaintiff herein which is pending disposal before the Court of Ld. DJ (Commercial Court)-02, District Shahdara, KKD Courts, Delhi and as such, the present suit is not maintainable.

15. Now, coming to the pleadings as contained in suit bearing no. 120/2025 instituted by the defendant herein against the plaintiff herein, which is already pending disposal before the Court of Ld District Judge (Commercial Court)-02, District Shahdara, KKD Courts, Delhi, the defendant herein has instituted the above said suit for recovery of the amount of Rs. 10,30,000/- stating therein that the plaintiff herein used to supply the children garments known as Baba Suit and Sweater knitwear to the defendant herein at the shop of the defendant herein, without placing any orders. It has been further stated that the defendant herein already paid the entire amount to the plaintiff herein and in fact, certain goods were also returned because of the inferior and sub-standard quality of the goods. The defendant herein has taken the stand, in the

above said suit bearing no. 120/2025 to the effect that the excess payment of Rs. 28,550/- was received by the plaintiff herein and the defendant herein also suffered losses on account of the loss of the goodwill and reputation in the market to the extent of Rs. 10 Lacs, for which, the plaintiff herein had undertaken to compensate but the plaintiff herein failed to do so.

16. Going by the above said pleadings of the parties, as contained in both the above said suits, it has not been denied by the plaintiff herein that the suit bearing no. 120/2025 instituted by the defendant herein against the plaintiff herein is prior in time. From the certified copies of the pleadings in suit bearing no. 120/2025, it is revealed that the e-filing of the above said suit was done by the defendant herein on 24.02.2025 but the first ordersheet in the present suit bearing no. 300/2025 is 30.05.2025. It has not been denied by the defendant herein that the above said suit bearing no. 120/2025 is prior in time.
17. The plaintiff herein has filed the written statement in the above said suit bearing no. 120/2025 stating therein that the present suit bearing no. 300/2025 has already been instituted by her against the defendant herein but no counter-claim has been filed by the plaintiff herein in the above said suit bearing no. 120/2025.
18. The subject matter of the suit, in the opinion of this Court, also pertains to the business transactions in between the plaintiff and the defendant but certainly the above said suit bearing no. 120/2025 has been instituted by the defendant

herein against the plaintiff herein for compensation on account of the loss to the goodwill and reputation of the defendant herein. The defendant herein has claimed the amount of Rs. 10 Lacs from the plaintiff herein, in the suit bearing no. 120/2025, on account of the compensation for causing loss to the goodwill and reputation of the defendant herein. However, the present suit has been instituted by the plaintiff herein against the defendant herein on account of the recovery of the outstanding amount because of the sale of the goods by the plaintiff herein to the defendant herein. As such, I am of the opinion that it has been rightly argued by the Ld counsel for the plaintiff herein that the nature of the relief sought for by the plaintiff in the present suit and by the defendant herein in the suit bearing no. 120/2025 is altogether different. To my mind, it cannot be said that the matter in issue in suit bearing no. 120/2025 is substantially and directly in issue in the present suit as well and as such, the necessary ingredients under Section 10 of the CPC have not been fulfilled. As a result, to my mind, the application instituted by the defendant herein under Section 10 of CPC is absolutely devoid of any merits and the same is hereby dismissed.

19. Now, coming to the application under Order VII Rule 11 of the CPC, the defendant herein has admitted the business dealings in between the plaintiff and the defendant. The controversy, in the opinion of this Court, as to whether the defendant has failed to make the payment of the balance amount of Rs. 6,19,500/- as alleged by the plaintiff, as to

whether the defendant made the payment of the excess amount to the plaintiff herein, as to whether the plaintiff has placed on record the forged and fabricated documents, can be decided only after evidence and trial. In the opinion of this Court, at this stage it cannot be said that the suit of the plaintiff herein is without any cause of action. Consequently, the application under Order VII Rule 11 of the CPC instituted by the defendant herein is also dismissed.

20. In the light of the above discussion, both the applications, one under Section 10 of the CPC and the other under Order VII Rule 11 of the CPC instituted by the defendant, are dismissed.

**Announced in the open Court
on 25th March 2026**

**(RAJ KUMAR)
District Judge, (Commercial Court)-01
South West District, Dwarka Courts
New Delhi**