

KABC170031712025



**IN THE COURT OF LXXXIV ADDL. CITY CIVIL &
SESSIONS JUDGE, AT BENGALURU (CCH-85)
(Commercial Court)**

THIS THE 4th DAY OF DECEMBER 2025

PRESENT:

**SRI. ANAND T. CHAVAN. B.Com.,LL.B.(Spl.)
LXXXIV ADDL. CITY CIVIL & SESSIONS JUDGE,
BENGALURU.**

Com.O.S.No.1396/2025

Plaintiff:-

Mr. B Sudhakar Pai,
S/o Late Sri. B Srinivasa Pai,
Aged 76 years,
R/at New No.10, Old No.458,
21st C Cross, 3rd Block, Jayanagar,
Bengaluru-560 011.

(Rep by Sri. Harish Kumar C -Advocate)

-V/s -

Defendants:- 1. M/s. Sunlarge Industries Pvt Ltd.,
(A company incorporated under
Companies Act) Plot No.282/1/C,
Bommasandra Jigani Link Road,
Opposite HCL Technologies Limited,
Bangalore-560105,

Rep by its Director,
Dr. Pundaleeka Sarode.

2. M/s. Sunlarge Filaments Pvt Ltd.,
(A company incorporated under
Companies Act) Plot No.282/1/C,
Bommasandra Jigani Link Road,
Opposite HCL Technologies Limited,
Bangalore-560105,
Rep by its Director,
Dr. Pundaleeka Sarode.

(Rep By Poovayya & Co., -Advocate)

PARTIES TO IA.No.4

Applicants/ M/s. Sunlarge Industries Pvt Ltd & Anr.,
Defendants:-

V/s

Respondent/ Mr. B Sudhakar Pai,
Plaintiff:-

(i)	Provisions under which the application is filed	U/Or. VII Rule 11(a) and (d) R/w Sec.151 of CPC & further R/w Commercial Courts Act, 2015
(ii)	Relief sought for	Rejection of plaint.
(iii)	The date on which the application are filed	12.11.2025
(iv)	Number of the application	1
(v)	The date on which the objections are filed by different opponents	By plaintiff on 14.11.2025

(vi)	The date on which the orders were passed on the said application	04.12.2025
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ORDER ON IA NO.4

The defendant Nos.1 and 2 have filed present application Under Order VII Rule 11(a) and (d) of CPC, R/w Sec.151 of CPC and further R/w Commercial Courts Act, 2015 seeking rejection of plaint.

2. It is averred in memorandum of facts filed by the counsel for defendants in support of present application that, the present suit is not maintainable before this court and it is barred by the law under Commercial Courts Act, 2015. Sec.12-A of said act mandates the institution of Pre-Institution Mediation (PIM) and settlement before District Legal Service Authority (DLSA) prior to institution of commercial suit. The plaintiff instituted PIM proceedings under Sec.12-A and notice was issued to defendants on 04.01.2025 by DLSA. The defendants appeared before DLSA, filed vakalathnama and consented to participate in said mediation process. Thereafter PIM proceedings were listed before DLSA on 05.02.2025, 11.02.2025, 19.02.2025, 04.03.2025 and 24.03.2025

for quantification of claim by plaintiff. However plaintiff failed to quantify the claim on one or the other pretext and remained absent during proceedings on 14.03.2025 and 09.04.2025. The defendant was ready and willing to settle the matter at the stage of pre-institution mediation, but due to non-participation of plaintiff, the DLSA issued Non-starter report dtd.11.04.2025. Thus plaintiff treated the pre-requisites of PIM proceedings as a mere formality and precursor for the present suit. It is further averred that, as per caselaw of Hon'ble Apex Court in the case of Patil Automation Pvt Ltd., it is held that, Sec.12A of the Act is mandatory and any suit instituted violating said mandate, must be rejected under Order VII Rule 11. The said position is reaffirmed by Hon'ble High Court of Delhi in case of Kapil Goyal V/s Ramdulare Yadav, reported under 2022 SCC Online Del 3873, wherein it is held that when plaintiff refuses to move forward in pre-institution mediation, the commercial suit filed thereafter is barred by law. It is averred that, plaintiff has not fulfilled mandate of Sec.12A of the act and instituted PIM as mere formality, which renders the present suit barred by law. These amongst other grounds, it is

prayed to reject the plaint by allowing the application.

3. The plaintiff has filed objections to above application, wherein it is averred that, the application is filed with malafide intention and it is sheer abuse of process of law. The ground mentioned in application is untenable and without any basis. It is further averred that judgment in Patil Automation, nowhere supports the case of defendant for rejection of plaint and Non-starer report clearly reflects that plaintiff has filed suit after failure of PIM before DLSA and after holding that the matter is not settled between parties. Hence without any other alternative, plaintiff approached this court. The present application is filed with an intention to drag on the proceedings and it is not maintainable as same is accompanied with memorandum of facts. It is further averred that parties have engaged in PIM and same was failed. Further in above memorandum of facts, nowhere defendants state as to what are the terms of settlement other than merely stating that they were willing to settle. The defendant is guilty of violating intellectual property rights (IPR) of plaintiff.

These amongst other grounds and it is prayed to reject the above application.

4. The following points arise for consideration;

1. Whether defendants have made out grounds to reject the plaint, as prayed for in the application?

2. What order?

5. Heard arguments of both sides, perused records.

6. My answer in the above points are as under:

Point No.1:- In the Negative

**Point No.2:- As per final order,
for the following**

REASONS

7. Point No.1:- The plaintiff has filed this commercial suit against defendants seeking to grant following reliefs:-

a. To grant a decree of permanent injunction restraining the defendants its agents or representatives and/or any one claiming under them in any manner whatsoever, from ceasing and desisting from using the trademark "SUNLARGE" or any deceptive variant thereof which is identical and/or similar to the plaintiff's registered trademark "SUNLARGE" thereby amounting to infringement of trademark and/or passing off;

b. To grant a decree of permanent injunction restraining the defendants its agents or

representatives and/or any one claiming under them in any manner whatsoever, using the trademark "SUNLARGE" or any deceptive variant thereof which is identical and/or similar to the plaintiff's registered trademark "SUNLARGE" thereby amounting to infringement of trademark and/or passing off;

c. To grant a decree of permanent injunction restraining the defendants its agents or representatives and/or any one claiming under them in any manner whatsoever, diluting the distinctive character and nature of the trademark "SUNLARGE" or any deceptive variant thereof which is identical and/or similar to the plaintiff's registered trademark "SUNLARGE" thereby amounting to infringement of trademark and/or passing off;

d. To grant a decree of permanent injunction restraining the defendants its agents or representatives and/or any one claiming under them in any manner whatsoever, from passing off their goods and/or services under the trademark "SUNLARGE" or any deceptive variant thereof which is identical and/or similar to the plaintiff's registered trademark "SUNLARGE" thereby amounting to infringement of trademark and/or passing off;

e. To grant a decree of permanent injunction restraining the defendants jointly and/or severally from using the name of "SUNLARGE" in its Trade Name in any manner whatsoever;

f. To grant a decree directing the 1st and 2nd defendants to deliver up all the infringing and impugned pamphlets, letter heads, posters or any printed materials infringing mark bearing the

impugned mark of "SUNLARGE", as the case may be, to an authorized representative of the plaintiff for destruction of impugned mark;

g. To direct the 1st and 2nd defendants to produce the entire books of accounts, balance sheet, profit and loss account from 01.04.2022 up to the date of decree for assessing the monetary damages caused to the plaintiff by virtue of infringement of its trademark;

h. For any other consequential relief/s including exemplary court costs of the suit as the court may deem fit to grant in the circumstances of the case.

8. It is specific case of plaintiff that, plaintiff is founder of a group of companies under name of "SUNLARGE" comprising of Sunlarge Consultants Private Limited, which was incorporated on 08.01.1997 under the erstwhile name Sudhakar Pai Corporate Services Private Limited, it was changed to Spalarge consultants Private Limited on 05.02.2004 and finally changed to Sunlarge Consultants Private Limited on 09.04.2008. The plaintiff incorporated Sunlarge Industries Private Limited on 20.02.2008 and Sunlarge Filaments Private Limited on 27.01.2015. The plaintiff got registered the trademark "SUNLARGE" under various classes and products in his individual name.

9. Hence the aforesaid word “SUNLARGE” in English alphabets along with logo is actual depiction of plaintiff’s mark before the general public and used by plaintiff since 2007 in all his activities of business and affairs throughout the country. It is further averred that defendants are misrepresenting themselves and using plaintiff’s trademark by glaringly violating his intellectual property rights. It is further averred that Dr. K Pundaleeka Sarode approached plaintiff and he being a doctor based in USA intended to establish a new industries and he engaged plaintiff to assist with industrial ventures and regulatory clearances in Karnataka. Subsequently he joined as a Director in the defendant Nos.1 and 2 companies on 08.08.2013, which are formed by plaintiff. At the time of his joining of above companies, the trademark “SUNLARGE” was already in existence and was used by plaintiff and defendant Nos.1 and 2 were permitted to use the said mark, which was well within knowledge of Dr. Pundaleeka Sarode. Over a period of time Dr. Sarode and his wife Mrs. Geetha Pundaleeka became majority shareholders (75%) in defendant Nos.1 and 2 companies. Thereafter Dr. Sarode and one Mr. K Shivanand Pai Head of the

Account Department of defendant Nos.1 and 2 conspired and filed false and malicious FIR against plaintiff on concocted records, which was closed by jurisdiction police by filing B report. Subsequently on 19.05.2022 both of them ousted the plaintiff as a Director of defendant Nos.1 and 2 companies, but they continued to use the mark "SUNLARGE" without any valid authorization or consent of plaintiff. Plaintiff objected the same and got issued a legal notice to defendants dtd.05.08.2023 calling upon defendants among other companies to cease and desist from using the trademark "SUNLARGE", of which plaintiff was the inventor and sole owner. Defendants issued evasive reply notice dtd.05.09.2023 and they formerly denied the other claims of plaintiff, but categorically admitted the unauthorized use of above trademark of plaintiff.

10. Thereafter plaintiff instituted an application before DLSA against defendants in PIM No.3313/2024 and after appearing in pursuant to notice, defendants though expressed intentions to amicably settle the matter, they never came forward with any proposal and began protracting the mediation process. Hence the plaintiff filed present suit against defendants with

necessary proof of approaching DLSA, but later DLSA issued Non-starter report.

11. Defendants have appeared before this court and filed present application seeking to reject the plaint on specific ground that, Though defendant appeared before DLSA, filed vakalathnama in pre-institution mediation proceedings filed by plaintiff under PIM No.3113/2024 and consented to participate in said mediation process, plaintiff himself failed to quantify the claim on one or the other pretext and remained absent during proceedings on 14.03.2025 and 09.04.2025. Hence though the defendants were ready and willing to settle the matter at the stage of pre-institution mediation, due to non-participation of plaintiff, the DLSA issued Non-starter report dtd.11.04.2025. Hence it is specifically contended by defendant that, plaintiff treated the pre-requisites of PIM proceedings as a mere formality and as such mandatory compliance of Sec.12-A of Commercial Courts Act are not complied by him.

12. In support of their contentions defendants have produced copy of order sheet in PIM No.3113/2024 along with copy of application filed by plaintiff for said proceedings. On going through aforesaid order

sheet it shows that, the plaintiff/applicant or his counsel are regularly present in said case on maximum dates and on 04.03.2025, it is recorded that quantum claim is not filed by applicant. Thereafter on 09.04.2025 the said authority by noting presence of both side counsels has closed the petition by recording that matter not settled and ordered for issuance of Non-starer certificate. The counsel for defendants has vehemently argued that though defendants appeared in said proceedings on 05.02.2025 and 11.02.2025 and though it was for plaintiff to quantify his claims, he remained absent before DLSA on 24.03.2025 as reflected in order sheet. They have further contended that plaintiff also remained absent on 14.03.2025 and 09.04.2025, which are not reflected in copy of order sheet, since order sheet was misplaced by DLSA and reissued order sheet contains errors. Hence in view of failure of plaintiff to effectively participate in aforesaid pre-institution mediation, the very suit is not maintainable under Sec.12-A of Commercial Courts Act. In support of their contention, counsel for defendant has relied upon following case laws and relevant portions are culled out as under:-

(2022) 10 SCC 1 between Patil Automation Private Limited & Ors., V/s Rakheja Engineers Private Limited. (Hon'ble Supreme Court)

“**113.** Having regard to all these circumstances, we would dispose of the matters in the following manner.

113.1 We declare that **Section 12A of the Act is mandatory and hold that any suit instituted violating the mandate of Section 12A must be visited with rejection of the plaint under Order VII Rule 11. This power can be exercised even suo moto by the court as explained earlier in the judgment. We, however, make this declaration effective from 20.08.2022 so that concerned stakeholders become sufficiently informed.**

113.2. Still further, we however direct that in case plaints have been already rejected and no steps have been taken within the period of limitation, the matter cannot be reopened on the basis of this declaration. Still further, if the order of rejection of the plaint has been acted upon by filing a fresh suit, the declaration of prospective effect will not avail the plaintiff.

113.3. Finally, if the plaint is filed violating Section 12A after the jurisdictional High Court has declared Section 12A mandatory also, the plaintiff will not be entitled to the relief.”

Hon'ble High Court of Delhi in 2022 SCC Online Del 3873 between Kapil Goel V/s Ram Dulare Yadav.

“**16.** A holistic reading of the facts of the case as well as the law demonstrates that the consent of the Plaintiff for the institution of the mediation proceedings is irrelevant if the Defendant refuses to move forward with it. **All that is required on the part of the Plaintiff is to initiate Pre-Institution Mediation**

prior to filing of a commercial suit. Once this is satisfied, if it is the Plaintiff who refuses to move forward with the mediation, then the suit that is instituted thereafter would be barred by law. However, if both the Defendant and the Plaintiff do not wish to pursue the mediation and a Non-starter Report is generated subsequent to the same, then if the Plaintiff files a suit, the same would not be barred by law.

17. It is pertinent to mention here that the facts of Patil Automation Private Limited (supra) reveals that it was the **Plaintiff therein who made the Pre-Institution Mediation proceedings a Non-Starter by not taking part in the Pre-Institution Mediation proceeding. Under those circumstances, the Supreme Court had observed that Section 12A of the Act would be mandatory in nature and the Suit can be dismissed under Order VII Rule 11 of the CPC if the Plaintiff does not fulfill the mandate of Section 12A of the Act. ...**

13. It cannot be disputed that ratio laid down in aforesaid cases is well founded and same needs to be strictly followed. However plaintiff has specifically contended that, he instituted an application before DLSA against defendants in PIM No.3313/2024 and after appearing in pursuant to notice, defendants through their representatives expressed intentions to amicably settled the matter and sought time. After grant of time on several occasions, it was felt by plaintiff that no concrete actions were being initiated

on the side of defendants by taking time before DLSA. Despite said proceedings were initiated on 21.12.2024, Non-starter report was not issued for long time, despite several follow ups and defendants never came forward with any proposal for settling the matter. It is further asserted by plaintiff that, defendants began protracting the mediation process under guise of settlement and it was given to understand that reason for not issuing Non-starter report was in view of mentioning by defendants that they are likely to settle the matter. Defendants never came forward with any offer and it was understood that they adopted the above tactics to drag on the time. Hence the plaintiff filed present suit against defendants with necessary proof of approaching DLSA, but DLSA belatedly issued Non-starter report.

14. In support of his case, plaintiff has produced non-starter report issued by DLSA, Bengaluru Urban in PIM No.3113/2024 dtd.11.04.2025 along with plaint, wherein it is specifically mentioned that, the said petition is closed as matter not settled, despite presence of counsels for both sides. Further nothing has been mentioned in said non-starter report that plaintiff never participated in above proceedings and

he never quantified his claim before DLSA. Moreover, though defendants assert absence of plaintiff on 14.03.2025 and 09.04.2025, same is not reflected in copy of order sheet of PIM No.3113/2024 produced by themselves and the said copy of order sheet reflects presence of both side counsels on above two dates. Further absolutely there is no endorsement of concerned DLSA with regard to misplacing of order sheet of said proceedings or reconstruction of such records as asserted by defendants. Hence on going through the order sheet produced by defendant themselves, absolutely there is no reason to believe that the plaintiff has not participated in aforesaid PIM proceedings and he has not co-operated for mediation process as claimed by defendants. Under such circumstances absolutely there is no ground to believe that the plaintiff has instituted the present suit by violating the mandate of Section 12A of Commercial Court Act and for said reason, the suit is barred for non-compliance of said mandatory requirement under Sec.12-A of said Act. Hence absolutely there are no grounds believe that the plaint deserves to be rejected in the light of ratios laid down in aforesaid case-laws. Hence the application filed by defendants

seeking rejection of plaint is devoid of merits and same needs to be rejected. **Accordingly Point No.1 is answered in the Negative.**

15. Point No.2:- For the reasons stated and findings given on Point No.1, the following is:-

ORDER

**IA No.4 filed by defendants
Under Order VII Rule 11(a) and (d) of
CPC R/w Sec.151 of CPC and further
R/w Commercial Courts Act, 2015, is
hereby rejected.**

No order as to costs.

[Dictated to the Stenographer Grade-III, directly on the computer, typed by her, then corrected and signed by me and pronounced in the Open Court, dated **this the 4th day of December 2025**]

(ANAND T. CHAVAN)

LXXXIV Addl.City Civil & Sessions Judge,
Bengaluru.