

KAMS010006372024



**BEFORE THE COMMERCIAL COURT & II ADDL.
DISTRICT & SESSIONS JUDGE AT: MYSURU.**

Dated this the 30th day of July, 2025

:: PRESENT ::

**Sri Mallanagouda, B.Com., LL.M.,
Presiding Officer,
Commercial Court &
II Addl. District Judge, Mysuru.**

Com.O.S.No.32/2024

PLAINTIFF : Canara Bank,
A banking company constituted
and Functioning under the
Banking companies (Acquisition
and Transfer of Undertakings) Act
1970, having its Head Office at
No.112, J.C.Road, Bangaluru
with its various Branches
functioning through out the
country and one such branch at
Bylakupper, Periyapatna Taluk,
Mysuru District.
R/by its Manager,
Sri. Mahesh Gunaris,
S/o. Veerappaji,
Aged about 49 years,

(By Sri. H.D.G., Adv.,)

-Vs-

DEFENDANTS : 1. B.S.M. Motors,
R/by Prop. B.S.Manjunatha,
S/o. Late M.Somappa,

Aged about 45 years,
R/at. B.M.Road, Kushalanagar,
Near Vijaya Bank,
Kodagu District.

2. Shashikanth N.M,
S/o. Mohan N.M,
Businessman,
Aged about 41 years,
R/at. No.4/1152,
Shivaram Karanth Extension,
Housing Board, Kushalanagar,
Kodagu District.

(By Sri. H.M.B., Adv.,)

PARTIES TO I.A.

APPLICANT/ : B.S.M. Motors,
1st Defendant R/by Prop. B.S.Manjunatha

-Vs-

OPPONENT/ : Canara Bank,
Plaintiff R/by its Manager

ORDERS ON APPLICATION FILED BY THE DEFENDANTS
UNDER ORDER VII RULE 11 OF C.P.C

This is the suit filed by the Plaintiff Bank seeking recovery of Rs.5,49,885.38/- with interest from the Defendants.

2. Now the Defendant No.1 has filed application under Order VII Rule 11 of C.P.C in which he has contended as under;

As per the provision of Section 12(a) of Commercial Courts Act Pre-Institution Mediation is compulsory before instituting the suit, unless the suit contemplated urgent interim relief. Herein the present suit the Plaintiff has failed to approach the Legal Service Authority for Pre-Institution Mediation as required under Section 12(a) of Commercial Courts Act. Hence, suit of the Plaintiff is not maintainable. Therefore, it is necessary to reject the plaint.

3. To this application counsel for the Plaintiff has filed objections stating that, Plaintiff has complied Section 12(a) of Commercial Courts Act and application is not maintainable. Hence, application is liable to be rejected.

4. Heard and perused the entire record.

5. The points that arises for my consideration are as here under :

1. Whether the Defendant No.1 has made out grounds for rejection of plaint ?

2. What order ?

6. My finding on the above point is as hereunder ;

Point No.1 : In the Negative
Point No.2 : As per final order
for the following;

:: REASONS ::

7. **POINT No.1**: This suit is filed by Plaintiff Bank seeking recovery of money from the Defendants in which Defendant No.1 has filed present application seeking rejection of plaint for not complying Section 12(a) of Commercial Courts Act. However, by looking to records it appears that, along with plaint the Plaintiff has produced Non Starter Report in PIMS Case.No.346/2023 from which it appears that the Plaintiff has filed petition before Legal Service Authority seeking Pre-Litigation Mediation. Due to non service of notice DLSA has issued Non Starter Report, which shows that, the Plaintiff has duly complied

Section 12(a) of Commercial Courts Act. Therefore, application of the Defendant No.1 is liable to be rejected.

Hence, **Point No.1 is answered in the Negative.**

8. **POINT No.2:-** In the result, I proceed to pass the following;

ORDER

The application filed by the Defendant No.1 under Order VII Rule 11 of CPC is rejected.

[Dictated to the Stenographer, transcribed & computerized by her, transcript revised, corrected and then pronounced by me in the open Court on this the **30th day of July, 2025**].

[MALLANAGOUDA]

Presiding Officer,
Commercial Court & II Addl.
District & Sessions Judge, Mysuru.