


IN THE COURT OF THE DISTRICT JUDGE – 1, KHAMGAON, DISTRICT – BULDHANA	
Commercial Suit No. 1/2024	
CNR No. MHBU04-000893-2024 	Siddharth–Mahavir–SPML - Versus - Vidarbha Irrigation Development Corporation + 1

ORDER BELOW EXH. 19

Date of Order : 03rd January, 2026.

This commercial suit is filed by the plaintiff seeking different reliefs vide prayer clause (a) to (k) i.e. for declaration, permanent injunction, to refund of amount etc. In this suit, plaintiff has also filed temporary injunction application Exh. 5 to restrain the defendants itself or through person, employees, officers from initiating any coercive steps and whatsoever nature of recovery of Rs. 4,46,35,097/- or part thereof from plaintiff and for recovery of Rs. 2,72,77,226/- from the plaintiff.

2. The defendant No. 2 Executive Engineer, Jigaon Lift Irrigation Division, Khamgaon, District Buldhana has appeared and filed present application under Order VII Rule 11(d) read with Section 151 of of the Code of Civil Procedure, 1908 for rejection of plaint.

3. The plaintiff has resisted the application by filing say at Exh. 21.

4. Heard Ld. Advocate Mr. A.S. Banarase for the applicant/defendant No. 2. He submitted that, the dispute raised by the plaintiff against defendant is in commercial nature. Therefore, it is necessary for the plaintiff to comply all necessary mandatory provision before filing the present commercial suit. He submitted that, as per Section 12-A of the Commercial Court Act, 2015 Pre-litigation Mediation and settlement is mandatory. The plaintiff has failed to comply the mandatory provision under Section 12-A of the Commercial Court Act, 2015, because, the plaintiff has not moved any application for mediation and settlement before the competent forum or authority before filing suit. He submitted that, the plaintiff has not filed application for dispense with the mandatory provision of Section 12-A of the Commercial Court Act, 2015. The plaint of plaintiff is totally silent on the point of Section 12-A of the Act. He submitted that, the suit is barred by law and liable to be rejected. He submitted that, in the present suit the plaintiff has not sought any urgent interim relief under this Act at the time of filing present suit. He submitted that the Hon'ble Bombay High Court Bench at Nagpur in Writ

Petition No. 339/2018 granted the interim relief on 21/06/2024 against the defendant till 05/07/2025. Hence, he urged to reject the suit.

5. He relied upon the case *Hq Lamps Manufacturing Co. Pvt. Ltd. Vrs. Everlight Electronics India Pvt. Ltd. And another, 2023 Supreme (Del) 5546* in which the Hon'ble Delhi High Court relying upon the Supreme Court's Judgment in *Patil Automation Private Limited and other, Rakheja Engineers Private Limited, (2022)10 SCC 1* held that Section 12-A is mandatory and any suit filed in violation of it must be rejected under Order VII Rule 11 of the C.P.C.

6. He relied upon the case *M/s. Patil Automation Private Limited and other Vrs. Rakheja Engineers Private Limited, 2022 Supreme (SC) 710*, in which the Hon'ble Supreme Court has observed that, in any suit instituted violating the mandate of Section 12-A must be visited with rejection of the plaint under Order VII Rule 11.

7. On the other hand, Mr. M.B. Phirke, Ld. Advocate for the plaintiff has submitted that, the authorities cited supra by the defendant No. 2 are not applicable because the plaintiff has sought the urgent

interim relief along with suit. He further submitted that, the application does not come within the ambit of Order VII Rule 11(d) read with Sec. 151 of the C.P.C. He submitted that only to delay the adjudication of the interim application filed by the plaintiff, the defendant No. 2 has filed present application. Hence, he urged to reject the application.

8. I have considered the submissions of both sides. Perused the application and say filed by the plaintiff. I have gone through the authority cited supra by the defendant No. 2.

9. Defendant No. 2 has filed present application under Order VII Rule 11(d) of the C.P.C. Therefore, I would like to quote here the provision Order VII Rule 11, rejection of plaint. The plaint shall be rejected in the following cases:— (a) — _____,
(b) — _____,
(c) — _____,
(d) where the suit appears from the statement in the plaint to be barred by any law.

10. There is no dispute that, the nature of the present suit is of commercial suit. As per Section 12-A of

the Commercial Courts Act, 2015 the suit which does not contemplate any urgent relief under this Act shall not be instituted unless the plaintiff exhausts the remedy of pre-litigation Mediation.

11. It is not disputed that plaintiff had filed Writ Petition No. 339/2018 before the Hon'ble Bombay High Court, Bench at Nagpur against the present defendants. As per order of the Hon'ble Bombay High Court, Bench at Nagpur dated 21/06/2024 said petition stands dismissed as withdrawn with liberty to file civil suit subject to condition in case an issue of limitation crops up, time spent while pursuing the present petition be taken into account. Interim relief to be continued till 05/07/2025.

12. The record shows that, thereafter, plaintiff has filed present suit. In view of Section 12-A of the Commercial Court Act, 2015 the suit shall be barred, if there is no pre-litigation Mediation. But, if plaintiff sought urgent relief then suit shall not be barred if there is no pre-litigation Mediation. In the present suit plaintiff has also filed application for temporary injunction Exh. 5 therefore, there is no bar of Section 12A of the Commercial Courts Act, 2015. After perusal of plaint and Section 12A

of the Commercial Courts Act, 2015 I am of the opinion that, present application does not come within the ambit of Order VII Rule 11(d) of the C.P.C. I have respect to the observations of the Hon'ble Delhi High Court and Hon'ble Supreme Court in the cases cited supra by the defendant No. 2, but, those are not helpful to the defendant No. 2 because facts are not identical.

13. In the light of above reasons and discussion, I conclude that present application does not come within the ambit of Order VII Rule 11 (d) of the Code of Civil Procedure, 1908 and there is no bar for filing the suit. Hence, application deserves to be rejected. Accordingly, I pass following order :-

ORDER

1. The application Exh. 19 is hereby rejected.
2. Cost in cause.

Khamgaon.
Date – 03/01/2026.

(G. B. Jadhav)
District Judge–1,
Khamgaon

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Commercial Suit No. 1/2024
Siddharth-Mahavir-SPML X
Vidarbha Irrigation + 1
ORDER ON EXH. 19

CERTIFICATE

I certify that this order P.D.F. uploaded is a true and correct copy of original signed order.

Name of the Court : District Judge – 1,
Khamgaon.

Name of the Stenographer : Miss H.D Chaudhari,
Stenographer Grade I.

Date of order : 03/01/2026.

Date of Uploading : 03/01/2026.