



ORDER PASSED BELOW EXH.16
IN COMMERCIAL SUIT NO.01/2025

[CNR No.MHKO090001922025]

The plaintiff has instituted the present suit which is registered as a commercial suit. The defendant has filed the present application contending that since one of the defendants is the government, the commercial suit is not maintainable and therefore the plaint deserves to be either rejected under Order 7 Rule 11 or returned under Order 7 Rule 10 of the Civil Procedure Code.

2. The application is strongly opposed by the plaintiff. The plaintiff submits that originally this suit was instituted as a regular civil suit. At that stage, it was the defendant himself who raised an objection that the dispute in question is a commercial dispute and therefore the suit ought to be registered as a commercial suit. Acting upon the said objection raised by the defendant, the plaint was accordingly amended and the suit was re-registered as a commercial suit. Now the very same defendant is taking a position which is completely contrary to the stand taken by him in the earlier application. The plaintiff, therefore, strongly opposed this application on the ground of estoppel and abuse of process.

3. From the Rival contentions following points crop for my determination :-

Sr. No.	Points	Findings
1]	Whether a commercial suit is barred against the government under the Commercial Courts Act, 2015 ? No
2]	Whether the plaint deserves to be rejected or returned ? No
3]	What order ? As per final order

REASONS

As to point no.1 -

4. The contention of the defendant that a commercial suit cannot be filed against the government is not supported by any specific provision of law. The Commercial Courts Act, 2015 defines "commercial dispute" under Section 2(1)(c) and vests jurisdiction in commercial courts for adjudication of such disputes. The Act does not contain any provision which expressly or by necessary implication bars a suit against the government from being filed as a commercial suit.

5. The government, while engaging in commercial activities such as entering into contracts, awarding tenders, or undertaking trade and commerce, does not shed its liability as a party to a commercial dispute. The definition of commercial dispute under the Act is wide enough to include disputes arising from agreements relating to immovable property used exclusively in trade or commerce, export or import of merchandise, construction and infrastructure contracts, and several other categories all of which may involve the government as one of the parties.

6. No provision has been brought to the notice of this court under the Commercial Courts Act or under any other statute which creates an absolute bar against the government being made a defendant in a commercial suit. In the absence of such a specific statutory bar, the contention raised by the defendant cannot be accepted.

7. On Point No. 1, it is therefore held that there is no legal bar under the Commercial Courts Act, 2015 against filing a commercial suit against the government. Hence, I answer point no.1 in the negative.

As to point no.2 -

8. As regards rejection under Order 7 Rule 11 Civil Procedure Code, the law is well settled that for the purpose of deciding an application under Order 7 Rule 11, the court has to read the plaint as a whole and determine whether any of the grounds enumerated therein are attracted. The grounds are exhaustive and rejection can be ordered only when the plaint discloses no cause of action, the relief is undervalued, the suit is barred by law, or the plaint is not filed in duplicate or the required court fees are not paid.

9. In the present case, the plaint does disclose a cause of action. The relief claimed is properly valued. No specific provision of law has been pointed out which bars the present suit. Therefore none of the grounds under Order 7 Rule 11 are attracted and rejection of the plaint is not warranted.

10. As regards return under Order 7 Rule 10 Civil Procedure Code, return of plaint is ordered when the court finds that it does not have jurisdiction to try the suit and the plaint is required to be presented before the proper court. In the present case, the question of jurisdiction does not arise in the manner urged by the defendant. The suit has been properly registered as a commercial suit on the defendant's own insistence. There is no question of returning the plaint for fresh institution before any

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other court. The application for return is therefore equally without merit. Hence, I answer point no.2 in the negative and pass the following order :-

ORDER

The present application filed by the defendant is hereby dismissed.

Place : Gadhinglaj.
Date : 16.03.2026.

(N. S. Puri)
Civil Judge Senior Division,
Gadhinglaj