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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 522/2024**

MAGNUM VENTURES LTD ..... Plaintiff

Through: Mr. Shreshth Jain, Adv.

versus

BANK OF BARODA ..... Defendant

Through: Mr. Kush Sharma, Mr. Nishchaya  
Nigam & Ms. Vagmi Singh, Advs.  
(M- 7838214305)

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**

**ORDER**  
% **31.05.2024**

1. This hearing has been done through hybrid mode.

**I.A. 31670/2024 (for exemption)**

2. Allowed subject to all just exceptions. Application is disposed of.

**I.A. 31671/2024 (for exemption)**

3. This is an application seeking exemption from serving the mandatory notice to the Defendant. The Defendant has entered appearance. The application is disposed of.

**CS(COMM) 522/2024 & I.A. 31669/2024 (for interim relief), I.A. 31672/2024 (for directions)**

4. Issue notice. Mr. Kush Sharma accepts summons and notice on behalf of Defendant.

5. The present suit seeks the recovery of Rs. 3 crores from the Bank of Baroda. The Plaintiff claims that an excess payment was made to the said Bank and is seeking recovery of this amount. The Plaintiff approached the Delhi High Court Legal Service Committee for pre-litigation mediation,



which was stated to be a non-starter as per the report dated 21st May, 2024. According to the Plaintiff, the Defendant did not participate in the mediation process. This is disputed by the Defendant.

6. Heard. It has already been clear in **Maxwell Partnership Firm Regd. v. National Insurance Co. (2024:DHC:3614)** that there is a duty upon Banks, Government Departments and other institutions of like nature to participate in pre-litigation mediation so as to avoid litigation. The entire purpose of Section 12A of the Commercial Courts Act, 2015 would be defeated if pre-litigation mediation is not made effective. The relevant portion of the said decision reads as follows:

*“14. In essence, the obligation to attend mediation is of paramount importance as the entire purpose of the enactment of the provision, as a mandatory step to be taken before commencing litigation, would otherwise be defeated. Especially in the case of organisations which have a public character, effective participation in pre-litigation mediation is essential. If mediation has to be taken seriously and with a result oriented approach, institutions with a public character including government departments etc., ought to participate through proper appearance of officials or duly authorised persons. Any non-participation ought to invite consequences in law.*

*15. Issue summons in the suit to the Defendants through all modes upon filing of Process Fee.*

*16. Let the written statement to the plaint be filed within 30 days. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiffs, without which the written statement shall not be taken on record. In view of the conduct of the Defendant through the previous litigation and non-attendance in the mediation proceedings, non-appearance despite*



*service of advance copy, the Defendants are shall deposit costs of Rs. 5 lakhs with the worthy Registrar General of this Court, as a pre-condition to file the written statement. If the costs are not deposited, the Written statement would not be liable to be taken on record.”*

7. Accordingly, let the written statement be filed within 30 days. In the meantime, the Defendant's officials shall also participate in the mediation proceedings before the Delhi High Court Mediation and Conciliation Centre.
8. Let reply to the injunction application be filed within four weeks and rejoinder within four weeks, thereafter.
9. List before the Delhi High Court Mediation and Conciliation Centre on 8th July, 2024 at 3:00 p.m.
10. List before the Joint Registrar on 20th August, 2024.
11. List before the Court on 7th October, 2024.

**PRATHIBA M. SINGH, J**

**MAY 31, 2024**

*Rahu/dn*