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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 755/2023**

PURE DIETS INDIA LTD.

.....Plaintiff

Through: Mr. Mukesh Sharma and Mr. Dinesh
Sharma, Advocates

versus

LOKMANGAL AGRO INDUSTRIES LTD. & ORSDefendants

Through: Mr. Shivalok Yashovardhan, Mr. TN
Durga Prasad and Ms. Manisha
Kanojiaa, Advocates

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **30.04.2026**

REVIEW PET. 202/2026

1. This Review Petition has been filed by the Defendants No.1 to 3 seeking review of the Order dated 12.03.2026, passed by this Court, permitting the Plaintiff to withdraw the present Suit with liberty to take steps in accordance with the mandate of Section 12A of the Commercial Courts Act, 2015.

2. The present Suit has been filed by the Plaintiff seeking a decree of damages of Rs.9,43,81,721/- on account of breach of contract.

3. It is not in dispute that the present Suit is a “commercial dispute” within the meaning of the Commercial Courts Act, 2015, and that the requirement of pre-institution mediation under Section 12A of the said Act had not been complied with prior to institution of the Suit. Upon realising this defect, the Plaintiff preferred an application being I.A. 6303/2026 under Order XXIII Rule 1(3) CPC seeking permission to withdraw the Suit with liberty to initiate appropriate proceedings after complying with the statutory



mandate.

4. It is pertinent to mention that the Defendants had filed an application under Order VII Rule 11 of CPC seeking rejection of the Plaint on the ground that the Plaintiff has not complied with Section 12A of the Commercial Courts Act, 2015.

5. It is the case of the Defendants that liberty ought not to have been given to the Plaintiff to take steps in accordance with the mandate of Section 12A of the Commercial Courts Act, 2015 and the Plaint ought to have been rejected under Order VII Rule 11 of CPC in view of the Judgment of the Apex Court in Patil Automation Pvt. Ltd. v. Rakheja Engineers Pvt. Ltd., **(2022) 10 SCC 1**; Dhanbad Fuels Ltd. v. State of Jharkhand, **2025 SCC OnLine SC 1129** & K.S. Bhoopathy v. Kokila, **(2000) 5 SCC 458**.

6. Heard the Counsel for the Review Petitioners and perused the material on record.

7. The scope of review jurisdiction is limited to correction of an error apparent on the face of the record and does not extend to re-appreciation of the merits of the matter.

8. In the opinion of this Court, the present Review Petition is completely misconceived. On realising that the Plaint suffers from a defect of not having complied with the mandate of Section 12A of the Commercial Courts Act, 2015, the Plaintiff filed an application for withdrawal of the present Suit and this Court, exercising its discretion under Order XXIII Rule 1(3) of CPC, permitted the Plaintiff to withdraw the Suit with liberty to take steps in accordance with the mandate of Section 12A of the Commercial Courts Act, 2015.

9. The contention of the learned Counsel appearing for the Defendants is



that the Order dated 12.03.2026 is unreasoned as the submissions of the Counsel for the Defendants including written submissions filed by it were not addressed, however, the Order dated 12.03.2026 against which the present Review is sought clearly sets out reasons as to why permission to withdraw the Suit along with liberty has been granted.

10. In the opinion of this Court, there is no error apparent on the face of the record of the Order dated 12.03.2026 warranting review.

11. Further, in the opinion of this Court, reliance of the Defendants on the Judgment of the Apex Court in Patil Automation Pvt. Ltd. (supra) is completely erroneous and in any event, Patil Automation Pvt. Ltd. (supra) does not come in the way of the Court in permitting the Plaintiff to withdraw the Suit to comply with the provisions of Section 12A of the Commercial Courts Act, 2015. The attempt of the Defendants is only to make sure that the suit filed by the Plaintiff should not be allowed. In any event, the Order dated 12.03.2026 was passed in the presence of the learned Counsel for the Defendants No.1-3.

12. Accordingly, the Review Petition is dismissed.

13. In view of the fact that the present Review Petition is completely misconceived resulting in the wastage of the precious judicial time, this Court is inclined to impose costs on the Review Petitioners. The Review Petitioners are directed to deposit Rs.20,000/- with the Armed Forces Battle Casualties Welfare Fund (AFBCWF) within four weeks from today.

SUBRAMONIUM PRASAD, J

APRIL 30, 2026

Rahul