

OD-9

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION

IA No. GA/3/2025

In

CS/159/2023

PRABHU INTERNATIONAL VYAPAR PRIVATE LIMITED
VERSUS
MSP INFRASTRUCTURES LTD.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 29th July, 2026

Appearance:

Mr. Anuj Singh, Adv.

Ms. Trinisha De, Adv.

Mr. Shivam Chaturvedi, Adv.

Ms. Rupal Singh, Adv.

For the plaintiff.

Mr. Abhrajit Mitra, Sr. Adv.

Mr. Satadeep Bhattacharyya, Adv.

Ms. Sriparna Mitra, Adv.

Ms. N. Ghosh, Adv.

Ms. Debartha Chakraborty, Adv.

Mr. Sagar Dutta, Adv.

For the defendant.

The Court:- This is an application by the sole defendant for rejection of
plaint and in the alternative the plaint be returned. The defendant has shown
the averments in paragraphs-3, 6, 7, 9 and 10 of the plaint along with the
balance confirmation of accounts appearing at pages 23 to 27, the income tax
notice at page-47 and the reply thereto at page-49. By relying on the
averments made in the plaint and the documents annexed thereto, it is

submitted by the defendant that the transaction between the plaintiff and the defendant in whatever manner has been described on a plain reading of the plaint, it is a commercial transaction. The documents annexed to the plaint admittedly describe that the plaintiff has been given loan as “business advance”. The terms of the contract as stated in paragraph-3 also clearly indicates the same to be a business transaction. This brings this suit clearly within the provision of commercial disputes as described in Section 2(1)[c][i] of the Commercial Courts Act, 2015 (in short, 2015 Act). The suit, therefore, ought to have been framed, filed and instituted under the provisions of 2015 Act. Having not done so, the plaint is liable to be rejected and in the alternative returned since the suit has been instituted as a commercial suit and not one in the Ordinary Original Civil Jurisdiction of this Court.

In course of argument, the defendant has relied upon the following judgments:

- 1) 2026 SCC OnLine Cal 5987 (Divij Mercantiles Pvt. Ltd.-Vs-Sabita Rungta and Others.**
- 2) 2026 SCC OnLine Cal 2656 (Rani Sati Abasan Private Limited-Vs-Ambootia Tea Exports Private Limited and others.**
- 3) An unreported judgment GA(Com) No.5 of 2025 in CS (Com) No. 650 of 2024 (Kamalesh Mohta-Vs-Karnani Constructions and Ors.) delivered by a learned Single Judge on 17th September, 2025.**
- 4) The Hon’ble Division Bench judgment FMAT 259 of 2024 and IA No. CAN 2 of 2024 (ADM Agro Industries Kota & Akola Pvt. Ltd.-Vs- Aone Agro Products Pvt. Ltd. and Ors.) decided on 21.01.2025.**

The sole defendant, therefore, says that the plaint is to be returned, if not rejected.

The plaintiff commences argument, but the same cannot be concluded.
Let this matter retain its position in the list.

(ARINDAM MUKHERJEE, J.)

snn.