

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: 5th August, 2026

Appearance:

Mr. Anuj Singh, Adv.

Ms. Trinisha De, Adv.

Ms. Rupal Singh, Adv.

For the plaintiff.

Mr. Abhrajit Mitra, Sr. Adv.

Mr. Satadeep Bhattacharyya, Adv.

Ms. Sriparna Mitra, Adv.

Ms. Nairanjana Ghosh, Adv.

Ms. Debartha Chakraborty, Adv.

Ms. Siddhi Agarwal, Adv.

Mr. Sagar Dutta, Adv.

For the defendant.

The Court:- The plaintiff commences argument and concludes the same.

It is the case of the plaintiff that before considering a document to be a mercantile document, the provisions of Section 2(1)[c](i) of the Commercial Courts Act, 2015 requires the Court to look into the nature of transaction between the parties. The document, if any, has to be considered in the perspective of transaction between the parties. In the instant case, the plaintiff

and the defendant had no transaction other than the money given by the defendant to the plaintiff as a loan. The defendant cannot, therefore, say that there has been an ordinary transaction between merchants in the instant case.

The plaintiff in this context has referred to paragraphs 1 and 2 of the plaint. The plaintiff also says that though in a portion of the reply to the notice issued by the Income Tax Department, the plaintiff has stated that the money was given to the defendant as “business advance”, but in the same page the plaintiff has clarified that there had been no business transaction between the parties. The stand of the defendant in this application and in the written statement are contradictory. The point which has not been urged in the written statement cannot be taken in an application to seek rejection of plaint.

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

- 1) ***2021 SCC OnLine 4240 (Ladymoon Towers Pvt. Ltd.-Versus-Mahendra Investment Advisors Pvt. Ltd.).***
- 2) ***2025 SCC OnLine Del 1758 (Meena Vohra-Versus-Master Hosts Pvt. Ltd. & Ors.).***
- 3) ***The judgment dated 21st January, 2025 in ADM Agro Industries Kota and Akola Pvt. Ltd.-Versus-Aone Agro Products Pvt. Ltd. and Ors.).***
- 4) ***The judgment and order of the Hon’ble Supreme Court dated 11th September 2024 passed in M/s. Bhagya Estate Ventures Pvt. Ltd.-Versus- Narne Estates Pvt. Ltd. & Another).***

Relying upon these judgments and the arguments advanced, it is

submitted by the plaintiff that the application for rejection of plaint and in the alternative return thereof should be dismissed.

Let this matter appear on 12th August, 2026.

(ARINDAM MUKHERJEE, J.)

snn.