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A.Nos.1793 and 1794 of 2024
in
C.S.(Comm.Div.) No.276 of 2023

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P.VELMURUGAN, J

Pending suit, Application No.1793 of 2024 is filed by the defendant to reject the plaint in C.S.(Comm.Div.) No.276 of 2023 and Application No.1794 of 2024 is filed by the defendant to dismiss the suit in C.S.(Comm.Div.) No.276 of 2023.

2. Though the suit is filed for recovery of money based on the Insurance Policy, the defendant has filed the application seeking to reject the plaint for non-compliance of Section 12-A of the Commercial Courts Act, 2015 [hereinafter 'CCA' for the sake of brevity]. Admittedly, the suit is filed without invoking Section 12-A of CCA and the plaintiff had filed the suit straight-away before this Court.

3. The learned counsel for the applicant / defendant submitted that the mandatory provisions of Section 12-A of CCA regarding Pre-



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Institution Mediation and Settlement, had not been complied with before filing the suit. The learned counsel further submitted that since no urgent interim relief is sought for in the plaint, the respondent/plaintiff ought to have exhausted the remedy of Pre-Institution Mediation and Settlement under Section 12-A of CCA and therefore, the suit is not maintainable.

4. Though the learned counsel for the respondent/plaintiff submitted that since the filing of the suit is for urgent relief, the suit is not barred under Section 12-A of CCA.

5. For better appreciation, it is appropriate to extract Section 12-A(1) of the Commercial Courts Act, 2015 (Chapter III.A) relating to "Pre-Institution Mediation and Settlement", which reads as follows :

'Section 12-A : Pre-litigation Mediation and Settlement : (1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-litigation mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.
....."



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6. The words "contemplates any urgent interim relief" under Section 12-A of CCA, should be proved to the satisfaction of the Court, whereas in the case on hand, the plaintiff has not established any urgency in the relief(s).

7. It is mandatory that prior to the filing of the suit, the plaintiff has to comply with Section 12-A(1) of CCA. There is exemption clause in Section 12-A(1) CCA that a suit, which does not contemplate any urgent relief under this Act, shall not be instituted, unless the plaintiff exhausts the remedy of pre-litigation mediation. In the present case, the plaintiff has not established the "urgent interim relief" clause and hence, the plaint itself is not maintainable.

8. This Court had carefully gone through the entire facts as averred in the plaint and in the affidavit filed in support of the application



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seeking to reject the plaint. This Court does not find that the respondent/plaintiff is entitled to invoke exemption clause under Section 12-A(1) of CCA.

9. For the foregoing reasons, A.No.1793 of 2023 is allowed, thereby, the plaint shall stand rejected. As a sequel, A.No.1794 of 2023 filed to dismiss the suit, shall stand closed. There shall be no order as to costs.

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