

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 17842 OF 2024

Benninger India Pvt Ltd

..Petitioner

Versus

First Space Infra LLP & Ors

...Respondents

Mr. Raj Patel, with Sourasubha Ghosh & Tanvi Darji, i/b Indus Law,
for the Petitioner.

Mr. R.D. Soni, with Pratik Kothari, i/b Ram & Co, for Respondent
No.1.

CORAM: N. J. JAMADAR, J.

DATED : 15th APRIL 2025

P.C.:

- 1.** Heard the learned Counsel for the parties.
- 2.** This Petition assails the legality, propriety and correctness of an order dated 23rd July 2024 passed by the learned District Judge, Khed Rajgurunagar, District Pune, whereby an application preferred by the Petitioner-Defendant No.1 for the rejection of the Plaint under the provisions of Order 7 Rule 11 of the Code of Civil Procedure 1908 (“the Code”) on account of the bar to the jurisdiction of the Civil Court in view of the provisions contained in the Presidency Small Causes Court Act, came to be rejected.

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3. The learned Judge, Commercial Court, has rejected the application by observing, in paragraph 14 of the impugned order, that upon consideration of the facts of the case and the principles enunciated in the judgments cited by the parties, the Court was of the view that the dispute between the parties was a commercial dispute.

4. The genesis of the dispute between the parties is in a Lease Deed dated 30th May 2017 and a Leave and License Agreement dated 30th May 2017. The impugned order singularly lacks reasons. The learned Judge, Commercial Court, does not seem to have examined the issue of subject matter bar to the jurisdiction of the Civil Court, in the light of the governing provisions and precedents cited before him. The learned Judge simply observed that the dispute seems to be a commercial dispute and the Court has jurisdiction.

5. Suffice to note, reasons are the soul of the judicial determination. In the absence of the reasons, this Court is not equipped to examine the legality, propriety and correctness of the impugned order.

6. Therefore, without delving into the merits of the matter, this Court considers it appropriate to remit the matter back to the Judge, Commercial Court, to decide the same afresh after providing an effective opportunity of hearing to the parties and ascribing reasons.

7. Hence the following order:

: O R D E R :

- (i) The Petition stands allowed.
- (ii) The impugned order stands quashed and set aside.
- (iii) The Application for rejection of the Complaint stands restored to the file of the Commercial Court.
- (iv) The learned Judge, Commercial Court, Khed, District Pune, is requested to hear and decide the Application afresh after providing an opportunity of hearing to the parties and ascribing reasons, as expeditiously as possible, and, preferably, on or before 9th May 2025.
- (v) The parties shall appear before the learned Judge, Commercial Court, Khed, Pune, tomorrow.

[N. J. JAMADAR, J.]