

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**COMMERCIAL APPEAL FROM ORDER NO. 4 OF 2024
WITH
INTERIM APPLICATION NO. 6425 OF 2024**

Abhishek Enterprises through its Prop.
Radheshyam Mevalal Gupta

... Appellant/Applicant

V/s.

S.P. Enterprises through its Prop.
Kamalakar Devnandan Yadav

... Respondent

None for the Appellant/Applicant

**CORAM : ALOK ARADHE, CJ. AND
BHARATI DANGRE, J.**

DATE : 20th FEBRUARY 2025

P.C. :

1. This Appeal, filed under Section 13(1-A) of the Commercial Courts Act, 2015, seeking directions against the order dated 6th November 2023, by which Notice of Motion taken out for rejection of the plaint has been rejected.

2. Section 13(1-A) of the Commercial Courts Act, 2015 is extracted below for the facility of reference, which reads thus :-

“13(1-A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and Section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).”

3. It is evident that this Appeal lies against an order, against which an Appeal lies under Order XLIII Rule 1 of the Code of Civil Procedure, 1908. The order of rejection of the plaint is not an order appealable under the provisions of Order XLIII Rule 1 of Code of Civil Procedure, 1908. Therefore, the Appeal filed under Section 13(1-A) of the Act is not maintainable. However, the same is disposed of with liberty to the Appellant to take recourse to such remedy as may be available to him in law.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)

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PAWAR

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