

Jvs.

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

COMMERCIAL APPEAL FROM ORDER NO. 5 OF 2024

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Mushtaque Tarmohammed Kamani	}	Appellant
Versus		
Gokul Vaishali Co-operative Housing Society Ltd. & Ors.	}	Respondent

Mr. Mohammed Zain Khan with Mr.Danish
Ansari for appellant.

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

DATE: FEBRUARY 10, 2025

ORDER: (Per Chief Justice)

1. This appeal under section 13(1-A) of the Commercial Courts Act, 2015 has been filed against an order dated 11th January 2024 passed by the City Civil Court at Dindoshi, Mumbai, by which the prayer made by the appellant to waive compulsory condition of pre-mediation has been rejected.

2. Facts giving rise to filing of the appeal, briefly stated, are that the appellant and respondent no. 1 entered into leave and licence agreement dated 18th May 2014 for a period till 17th April 2015. Thereafter, another leave and licence agreement was executed for a period from 1st September 2015 till 31st May 2018. The appellant filed Commercial Suit (St.) No. 12100 of 2023 in the City Civil Court, Dindoshi, Mumbai. The City Civil Court, by an order dated 11th January 2024 has rejected the

prayer of the appellant to waive pre-institution mediation and settlement as required under section 12A of the Commercial Courts Act, 2015.

3. Section 12A of the Commercial Courts Act, 2015 exempts the requirement of pre-institution mediation in a case where urgent relief under the Act is sought. From a perusal of the record, it is evident that along with the suit, the plaintiff has not filed any application, however, in the interest of justice, the appellant is granted liberty to move an application seeking urgent relief, if so advised which shall be dealt with on its own merits and in accordance with law.

4. With the aforesaid liberty, the appeal is disposed of.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)