

Jvs.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

COMMERCIAL APPEAL NO. 62 OF 2024

Pranav J. Choksi	}	Appellant
Versus		
National Spot Exchange Limited	}	
& Ors.	}	Respondents

JAYANT
VISHWANATH
SALUNKE

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JAYANT VISHWANATH
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None for the appellant.

Mr. Ashish Kamat, Senior Advocate with
Mr. Vaibhav Bhure, Mr. Melvyn Fernandes,
Mr. Shlok Parekh, Ms. Anuya Pathare i/b.
Vaish Associates for respondent (NSEL).

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

DATE: MARCH 5, 2025

ORDER/P.C.: (Per Chief Justice).

- 1.** None for the appellant. Learned counsel for respondent no.1 is present.
- 2.** This appeal under section 13(1-A) of the Commercial Courts Act, 2015 has been filed against the order dated 13th January 2022, by which the Chamber Summons for rejection of the plaint has been dismissed on the ground that the plaint discloses the cause of action.
- 3.** Learned counsel for the respondent raised a preliminary objection to the maintainability of the appeal on the ground that in view of the proviso appended to section 13(1-A) of the Commercial Courts Act, 2015, an appeal shall lie from such

orders passed by a Commercial Court which are enumerated specifically under Order XLIII Rule 1 of the Civil Procedure Code, 1908 (CPC). Thus, the objection to the maintainability of this appeal is that since the order under challenge is not enumerated under Order XLIII, Rule 1 of the CPC, this appeal under section 13(1-A) of the Commercial Courts Act, 2015 is not maintainable and the appeal is, thus, liable to be dismissed. Reliance is placed on the decision of this Court in the case of **Bank of India & Anr. vs. M/s. Maruti Civil Works (AO/362/2021)** decided on 15th December 2023.

4. It is clear that an appeal under section 13(1-A) of the Commercial Courts Act, 2015 would lie only against the judgement and orders which are enumerated or enlisted under Order XLIII, Rule 1 of the CPC. In the instant case, the Chamber Summons was filed under the provisions of Order VII Rule 11 of the CPC, which is not enumerated or enlisted in Order XLIII, Rule 1 of the CPC, hence, the appeal cannot be entertained.

5. Resultantly, the appeal is dismissed as not maintainable.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)