



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 02.07.2025

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Application No.227 of 2025
in C.S.(Comm.Div)No.222 of 2024

Vincent C Alluvila
6-B, Park View Apartments, Market Road,
Convent Junction, Ernakulam - 682011. .. Applicant/1st Defendant

-VS-

1. Joseph Cleetus
2. John Cleetus .. Respondents 1 & 2/Plaintiffs 1 & 2
3. Imelda Cleetus
4. Aditya Cleetus Aluvila
5. Master Ameya Joseph
6. Ms. Divya Aluvila
7. Susan Mary Cleetus Alias Susan George
8. Vinjan Centre
Represented by its Partner, Imelda Cleetus,
Office at Door No.96, Pantheon Road,
Egmore Taluk, Egmore, Chennai 600 008.
.. Respondents 3 to 8/Defendants 2 to 7



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Prayer: Application is filed under Order XIV Rule 8 of the Original Side Rules 7 Read With Order VII Rule 11(d) of CPC, to reject the above suit presented by Plaintiffs 1 & 2, as the same is barred by law for non compliance of Section 12-A of the Commercial Courts Act, 2015.

For Applicant : Mr.Ashok Menon

For R1 & R2 : Mr.Avinash Wadhwani

For R3 & R7 : Mr.Karthik Sundaram

ORDER

By relying on Section 12A of the Commercial Courts Act, 2015 (Commercial Courts Act), the present application is filed to reject the plaint. The plaint was filed seeking relief *inter alia* in respect of suit schedule B property. Along with the plaint, the plaintiff filed O.A.No.847 of 2024 seeking an interim injunction to restrain the defendants from encumbering or alienating the suit schedule property pending disposal of the suit. In such application, learned counsel for defendants 1, 3 to 5 undertook not to alienate or encumber or let out the suit schedule property on 02.12.2024. The said undertaking was extended from time to time and remains in force.

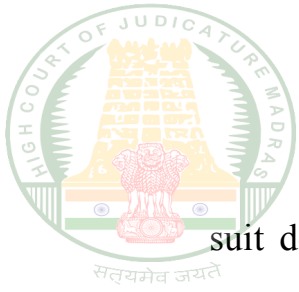


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2. Learned counsel for the applicant/1st defendant submits that the plaintiff is liable to be rejected on account of non-compliance with the pre-institution mediation obligation under Section 12A of the Commercial Courts Act. He relies upon the recent judgment of the Supreme Court in *M/s.Dhanbad Fuels Private Limited v. Union of India and another, Civil Appeal No.6846 of 2025, dated 15.05.2025*. Since the suit was presented after 20.08.2022, learned counsel submits that the plaintiff is liable to be rejected.

3. On the contrary, learned counsel for the plaintiffs relies upon *Yamini Manohar v. T.K.D.Keerthi, (2024) 5 SCC 815* and submits that the suit does contemplate urgent interim relief.

4. As narrated above, the plaintiff was accompanied by an application seeking interim relief in respect of the suit schedule property. Learned counsel for defendants 1, 3 to 5 provided an undertaking not to alienate or encumber or let out the relevant property and such undertaking continues to operate as on date. In these circumstances, it cannot be concluded that the



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suit does not contemplate urgent interim relief or that the application for interim relief was filed solely to circumvent pre-institution mediation requirements in Section 12A of the Commercial Courts Act.

5. For reasons set out above, the application to reject the plaint is dismissed without any order as to costs.

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02.07.2025
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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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