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A.No.4392 of 2024 in

C.S.No.610 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.4392 of 2024 in

C.S.No.610 of 2019

Kishore Kumar

... Applicant/Defendant

vs.

M/s.Awesome Builders (P) Limited

Rep.by its Director Mr.Hithesh Kaanodia, Having its Registered Office at
No.6, AE Block, 7th Street, 10th Main Road, Anna Nagar, Chennai 600
040.

.. Respondent/Plaintiff

For Applicant/Defendant :Mr.T.Srikanth

For Respondent/Plaintiff :Ms.M.Meena Rukmani for Mr.L.Palanimuthu

ORDER

By this application, the defendant seeks rejection of the plaint
under Order VII Rule 11(d) of the Code of Civil Procedure, 1908.

2.The application is filed on the ground that the plaintiff did not



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comply with the mandatory requirement of pre-institution mediation under Section 12A of the Commercial Courts Act, 2015. While holding that Section 12A is mandatory in *Patil Automation Private Limited v. Rakheja Engineers Private Limited (Patil Automation)*, (2022) 10 SCC 1, the Hon'ble Supreme Court also held that the declaration would be effective in respect of suits instituted on or after 20.08.2022. This suit was instituted in the year 2019. The only exception was in respect of Courts which had conclusively held that Section 12A is mandatory even before the order was pronounced in *Patil Automation*. Since this Court had not conclusively concluded in such manner, the plaint is not liable to be rejected as per law laid down in *Patil Automation*. This conclusion also finds support in the judgment of the Division Bench of this Court in *M/s.Dimensions, a Partnership Firm, represented by its Partner, Dr.A.Sudhahar v. M/s.Hethaiamman Charitable Trust and another, Appeal (CAD)No.26 of 2023, judgment dated 03.10.2024*. Therefore, this application is dismissed without any order as to costs.

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17.02.2025

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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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