

02.04.2026  
Item No.4  
Court No.37  
CHC

**In The High Court at Calcutta**  
**CIVIL APPELLATE JURISDICTION**  
**Commercial Division**  
**Appellate Side**

**AD-COM/7/2025**  
**IA NO: CAN/1/2025**

**M/s J. R. Construction**  
**Vs.**  
**Concord Engineering & Anr.**

Mr. Partha Pratim Roy, Advocate  
Mr. Debashis Banerjee, Advocate  
Mr. Rakesh Jana, Advocate  
...for the appellant

1. Affidavit-of-service filed in Court be taken on record.
2. None appears for the respondents despite service.  
Appeal is taken up for final hearing.
3. Appeal is directed against the order dated July 28, 2025, passed by the Learned Judge, Commercial Court at Rajarhat, North 24 Parganas in MS(Com)-26 of 2025, by which, the learned Judge rejected the plaint on the ground that, the plaintiff did not comply with the mandatory provisions under Section 12A of the Commercial Courts Act, 2015.
4. It appears from the records that, the appellant as a plaintiff filed a suit for recovery of money. Foundational basis for the recovery of money from the

respondent is a contract entered into between the parties. The contract was for construction and laying down of a pipeline.

5. The disputes involved in the suit in our view, are commercial in nature within the meaning of Section 2(1)(c) of the Act of 2015. The suit was filed on July 23, 2025.
6. Appellant as the plaintiff filed an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 and an application for grant of permission under Section 12A of the Act of 2015 on the date of filing of suit being July 23, 2025.
7. Application for grant of leave under Section 12A of the Act of 2015 was taken up for consideration on July 28, 2025 by the order impugned. Learned Trial Judge, refused to grant permission to move the urgent interim relief application and rejected the plaint as noted above.
8. It is trite law that, under Section 12A of the Act of 2015 is mandatory. It requires pre institution mediation unless the plaintiff seeks urgent interim relief.
9. In the facts and circumstances of the present case, the appellant as the plaintiff sought urgent interim relief and filed an application simultaneously with the suit for urgent interim relief.

10. In such circumstances, the order dated July 28, 2025 cannot be sustained and therefore, set aside.
11. AD-COM/7/2025 is allowed. IA No:CAN/1/2025 stands disposed of.
12. MS(Com)-26 of 2025 along with all connected applications is restored to its file and number.

**(Debangsu Basak, J.)**

**(Md. Shabbar Rashidi, J.)**