

**In the High Court at Calcutta
Commercial Division
Original Side**

Judgment (2)

**PRESENT :
THE HON'BLE JUSTICE ANIRUDDHA ROY**

**IA No. GA-COM/1/2026
In CS-COM/4/2026**

**FOODIMENTARY INDIA LIMITED
VS
RAGHUNATH EXPORTS PRIVATE
LIMITED.**

For the plaintiff

**: Mr. Suddhasatva Banerjee, Sr.Adv.
Mr. Shashrat Nayak, Adv.
Mr. Debayan Sen, Adv.
Ms. Mahima Cholea, Adv.
Ms. Deepti Priya, Adv.**

Heard on : January 19, 2026

Judgment on : January 19, 2026.

In Re: CS-COM/4/2026

ANIRUDDHA ROY, J :

1. The plaintiff claims dispensation of requirement to travel to pre-litigation meditation as provided under **Section 12 A** of the **Commercial Courts Act, 2015** (for short CC Act).

- 2 . Mr. Suddhasatva Banerjee, learned Advocate appearing for the plaintiff has placed the plaint. Mr. Banerjee has specifically referred to the averments made in **paragraphs 39 to 44** of the plaint while praying for dispensation of requirement of pre-litigation mediation under **Section 12A of the CC Act**.
- 3 . In support of his contention, Mr. Banerjee has submitted that the statement in the plaint has to be read as sacrosanct. If the statements in the plaint show that the plaintiff contemplates an urgent interim relief, then immediately the requirement for dispensation of formalities under **Section 12A of the CC Act** stands satisfied and the formalities should be dispensed with.
- 4 . He has also relied upon a judgment of this Court delivered on **November 7, 2025** *In the matter of : Berger Paints India Limited vs. GPHP Holdings Pvt. Ltd. rendered in IA No. GA-COM/3/2025 in CS-COM/48/2025*. He has referred to the following portions from the said judgment.

“22. On a meaningful and harmonious reading of the said provision, this Court is of the view that, if the plaintiff does not contemplate any urgent interim relief then it is a mandatory requirement under the statute to avail of the remedy of pre-

litigation mediation. Therefore, if an urgent interim relief is contemplated by the plaintiff, there is no bar under the Section upon the plaintiff to file the necessary civil action without exhausting the remedy of pre-litigation mediation. To ascertain whether an urgent interim relief has been contemplated by the plaintiff, the averments in the plaint to be taken as true and correct and to be read as sacrosanct.

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26. The expression ‘contemplate any urgent interim relief’ used under Section 12(1) of the CC Act shall qualify the plaintiff, if pleaded in the plaint, to pray for dispensation of the requirement for pre-litigation mediation under Section 12(a) of the Act.

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28. It matters little, whether ultimately the plaintiff would succeed on its prayer for interim relief or with its suit on merit, what matters is that the averments in the plaint should show a contemplation by the plaintiff for an urgent interim relief, which is the considered and firm view of this Court is there in the plaint as it appears prima facie.”

5. On a meaningful reading of the statement in the instant plaint, it appears to this Court that, the facts stated in this plaint is different and clearly distinguishable from the facts **In the matter of: Barger Paints India Ltd. (supra). In the matter of: Barger Paints India Ltd. (supra)** by way of two documents of **February and March,**

2025 the defendant has contemplated to sell its property and informed the plaintiffs accordingly, which gave rise to the contemplation of the plaintiff for an urgent interim relief. The facts in **Barger Paints India Ltd. (supra)** also shows that defendant had also executed registered conveyance on **March 26, 2025**. In this regard, the relevant paragraphs from the judgment **In the matter of : Barger Paints India Ltd. (supra)** are quoted below:

*23. The averment in the instant plaint shows specifically that by way of said two documents, as referred to above of **February and March, 2025**, since the defendant has contemplated to sell its property and informed the plaintiff in writing, the same has given rise to the contemplation of the plaintiff for an urgent interim relief and, hence, the plaintiff prayed for dispensation of the requirement for pre-litigation mediation as provided under Section 12(a) of the CC Act.*

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*27. Furthermore, the subsequent order May 6, 2025 shows that after dispensation of the process for pre-litigation mediation, though an interim order of injunction was passed against the defendant dated April 16, 2025, learned counsel for the defendant submitted that the defendant had already executed a registered deed on **March 26, 2025** in respect of the subject immovable property."*

6. After considering the averments made in the plaint and after hearing Mr. Banerjee, learned Counsel appearing for the plaintiff, this Court is of the view that, contemplation in the plaint for urgent interim relief has to be considered on a meaningful and harmonious reading of the relevant provisions laid down under **CC Act** along with the statements made in the plaint, which otherwise are to be accepted true and correct. In the instant plaint, save and except, some bald statements contemplating an urgent interim relief, this Court finds no other statement made contemplating an urgent interim relief. The ratio of the judgment **In the matter of: Barger Paints India Ltd. (supra)** will have to be read and understood in the light of the facts of that case, as already discussed above. The facts in the instant plaint are clearly different and distinguishable from the facts **In the matter of: Barger Paints India Ltd. (supra)**. Meaningful reading of the averments in the plaint made in **paragraphs 39 to 44**, in the considered view of this Court, do not contemplate an urgent relief on the part of the plaintiff.

7. In view of the foregoing reasons and discussions, the prayer of the plaintiff for dispensation of formalities to go for pre-litigation mediation as provided under **Section 12(A)** of the **CC Act**, stands **rejected** and is **not allowed**.
8. The plaintiff shall have to avail of the mediation process in accordance with law and then if the mediation fails, the plaintiff shall be at liberty to file the suit.
9. Accordingly, the plaint filed in **CS-COM/4/2026** is returned. The Court-fees paid shall have to be returned to the plaintiff with liberty to utilize the same in a subsequent suit depending upon the facts situation, if the mediation fails.
10. It is made clear that this Court has not gone into the merits of the claim of the plaintiff in any manner.
11. The Department shall forthwith rectify and correct the suit register deleting the said suit from it and wherefrom the necessary deletion is required to be carried in the records, shall be done by the Department.

In Re: IA No.GA-COM/1/206 :

12. Notice of motion filed in Court today is taken on record.

13. In view of the order passed in **CS-COM/4/2026**, above, the instant application **GA-COM/1/2026** stands **dismissed** as **returned**, without going into the merit of the same.
14. The plaintiff/petitioner shall be at liberty to file necessary application depending upon the fact situation, if the mediation fails, on the self-same cause of action.

(ANIRUDDHA ROY, J.)

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