

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

Judgment (2)

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

CS-COM/59/2026

**FINETHICAL TRADING PRIVATE
LIMITED
VS
SHREE RSH PROJECTS PRIVATE
LIMITED**

**For the plaintiff : Mr. Rajarshi Dutta, Adv.
Mr. Sarbesh Choudhury, Adv.
Mr. Pranav Sharma, Adv.**

Heard on : May 8, 2026

Judgment on : May 8, 2026

[In Court]

ANIRUDDHA ROY, J :

1. The plaintiff while presenting the plaint prays for dispensation of the requirement to avail of pre-litigation mediation, as provided under **Section 12A of the Commercial Courts Act, 2015** (hereinafter, "**CC Act**").

2. Mr. Rajarshi Dutta, learned Advocate appearing for the plaintiff has referred to the plaint. The plaint shows the claim of the plaintiff is more than **Rs.11 crore**, on account of money lent and advanced. According to the plaintiff, part of the dues to the extent of more than **Rs.5 crore** is admitted by the defendant. He then refers specifically to the averments made in **paragraphs 18 to 23** from the plaint and submits that the plaintiff **contemplates urgent interim relief**.
3. After considering the submissions made on behalf of the plaintiff and on perusal of the averments made in the plaint, this Court finds that save and except a specific averment made in **paragraphs 18 and 19** of the plaint that on or about 21st April, 2026, the plaintiff has derived information from local brokers and therefore, the plaintiff has reasons to believe that the defendant may deal with its immovable property, the other averments in the plaint are general averments.
4. Hon'ble Supreme Court on interpretation of the provisions under **CC Act** in plethora of judgments, with the passage of time, has settled the law as follows:-

(a) **Section 12A** of the Act is mandatory and the suit instituted violating the mandate of **Section 12A** must be visited with rejection of plaint, the power can be exercised even suo-motu by the Court;

- (b) The expression “**contemplate**” connotes to deliberate and consider. Further, the legal position that the plaint can be rejected and not entertained reflects an application of mind by the Court as regards to requirement of urgent interim relief;
- (c) Prayer for an urgent interim relief should not act as a disguise to get over the bar, contemplated under **Section 12A**;
- (d) It is immaterial to consider that at the stage of moving an interlocutory application for injunction, whether the prayer for interim relief will succeed or not;
- (e) The test for **urgent interim relief** is on an examination of the nature and the subject matter of the suit and the cause of action, the prayer of urgent interim relief by the plaintiff could be said to be contemplated when the matter is seen from the stand point of the plaintiff.
- (f) The court must also be wary of the act that the urgent interim relief must not be merely an unfounded excuse by the plaintiff to bypass the mandatory requirement of **Section 12A**;
- (g) When a plaint is filed under **CC Act**, with prayer for an urgent interim relief, the Commercial Court should examine the nature and the subject matter of the suit, the cause of action and the prayer for interim relief. The prayer for urgent

interim relief should not be a disguise or musk to wriggle out and get over Section 12A of the **CC Act**. The facts and circumstances of the case has to be considered holistically from the stand point of the plaintiff;

(h) The plaintiff cannot have an absolute choice and right to paralyse **Section 12A** by making a prayer for interim relief.

The Court has to apply its mind and must come to a conclusion that there is no camouflage or guise to bypass statutory mandate under Section 12A. Such process of bypassing the mandatory provision should be checked;

(i) The words “**contemplate any urgent interim relief**” used under **Section 12A**, with reference to the suit, ***should be read as conferring power on the Court to be satisfied.***

5. In view of the law settled above, this Court has scrutinized the averments made in the plaint. Save and except a bald averment made in **paragraph 19** referring to knowledge of the plaintiff dated **April 21, 2026**, this Court does not find any further averments on which the plaintiff can contemplate an urgent interim relief. The statements made in **paragraphs 18 and 19** of the plaint are general and on the basis of this statement, this Court holds that the requirement for **pre-litigation mediation cannot be dispensed with**, as provided under **Section 12A of the CC Act**.

6. In view of the above, the parties shall avail of the pre-litigation mediation in accordance with law.
7. It is made clear that the mediation must commence within **one week** after completion of the initial formalities with the Mediation Centre and must conclude **within a month** from the date of first day of sitting in the mediation.
8. The Court Fees paid shall be returned to the plaintiff and/or the plaintiff shall be allowed to utilize the same in the event any post mediation suit is filed between the same parties.
9. With the above observations and directions, the plaint is directed to be **taken off** the file applying the principle of **Order VII Rule 11** of the **Code of Civil Procedure**.
10. Consequently, **CS-COM/59/2026** stands **dismissed** with leave to file afresh on the self same cause of action, in the event any post mediation suit is filed between the same parties.

(ANIRUDDHA ROY, J.)

RS