

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
Commercial Division
ORIGINAL SIDE

RVWO/33/2025
IA NO: GA-COM/1/2025

JAGRATI TRADE SERVICES PRIVATE LIMITED
VS
TIRUPATI VANCOM PRIVATE LIMITED AND ORS.

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : 4th February, 2026.

Appearance:

Mr. Rudrajit Sarkar, Adv.
Mr. Debangshu Dinda, Adv.
Mr. Jai Kumar Surana, Adv.
Mr. A. Roy, Adv.
...for petitioner/review applicants

Mr. Krishnaraj Thaker, Sr. Adv.
...for the plaintiff

Mr. Paritosh Sinha, Adv. (VC)
Mr. K.K. Pandey, Adv.
Mr. Zeeshan Haque, Adv.
Ms. Sonia Nandi, Adv.
Ms. Mallika Bothra, Adv.
...respondent no. 2

1. The defendant nos. 2 and 3 being applicants in the present application have filed review application being RVWO/33/2025 along with an application being GA(COM)/1/2025 for review of the judgment passed by this Court on 8th August, 2025 in GA(COM)/3/2025 in CS(COM)/70/2025 (Tirupati Vancom Private Limited Vs. James Glendye & Co. Private Limited & Ors.) wherein this Court dismissed the applications filed by the defendants nos. 2 and 3 for revocation of leave granted by this Court under Section 12A of the Commercial Courts Act, 2015.

2. Counsel for the defendant nos. 2 and 3 submits that at the time of hearing of the application being GA-COM/3/2025, the plaintiff was not with the defendants and as such the defendants could not refer the plaintiff. He further submitted that after the dismissal of the said application, the plaintiff has served the plaintiff and after going through the plaintiff, the defendant nos. 2 and 3 came to know that in the plaintiff at paragraphs 20, 23, 24 and 25 the plaintiff has categorically admitted that the plaintiff had the knowledge about the dispute with regard to the amount claimed by the plaintiff but the plaintiff failed to file the case and all off a sudden in the month of May, 2025 has filed the instant suit and this Court has granted leave under Section 12A of the Commercial Courts Act 2015. The defendant nos. 2 and 3 has further drawn the attention of this Court to the e-mail dated 14th July, 2014 and submitted that from the e-mail, it is also proved that the plaintiff had the knowledge with regard to the dispute but the plaintiff has not taken any steps for filing of the suit for recovery of the money.
3. The defendant nos. 2 and 3 further submit that the plaintiff in paragraph 43 stated that the defendant no. 1 has instituted the case being CS/64/2024 and as such there is no requirement of initiation of the pre mediation. He further submitted that the suit filed by the defendant no. 1 cannot be co-related with the instant case. He submits that the plaintiff has filed a separate suit, thus the plaintiff ought to have initiated the pre-mediation process before institution of the present suit.

4. He submitted that there is error apparent on the face of record as this Court while rejecting the application filed by the defendant no. 2 and 3 being GA-COM/3/2025 has not considered that in the plaint itself the plaintiff has admitted with regard to the knowledge of the dispute but the plaintiff has not initiated the suit in the year 2024 and only in the month of May, 2025 the plaintiff has initiated suit without initiating the pre mediation process.
5. Per contra, learned Advocate appearing for the plaintiff/respondent submits that this Court while passing the judgment dated August 8, 2025 has categorically recorded submission made by the learned Counsel for the respective parties. He further submitted that in paragraph 4 of the judgment, this Court has recorded that the learned Counsel for the defendant nos. 2 and 3 has submitted that the plaintiff had the knowledge with regard to the award dated 29th June, 2023 but the plaintiff has filed the suit in the 2025 after the period of two years from the award and thus there is no urgency. He further pointed out that in paragraph 13 of the judgment this Court has also recorded that the defendant no.1 has received the amount as per Clause 9 of the Memorandum of Understanding and the defendant no.1 ought to have paid the amount to the plaintiff but the defendant no.1 has not paid the said amount. Accordingly, the plaintiff has filed the suit on 14th May, 2025 with the prayer for urgent relief and dispensation of section 12A of the Commercial Courts Act, 2015.
6. He further submits that this Court while passing the judgment dated 8th August, 2025 has considered each and every aspect and passed the

order rejecting the application for revocation of leave and as such there is no error apparent on the face of the record.

7. He further submits that the email which the defendant no. 2 and 3 are now relying upon, which is disclosed in the present application in pages 68 and 69, was not disclosed by the defendant nos. 2 and 3 in their application and in the present application the defendant nos. 2 and 3 have also not shown any cause why the defendant nos. 2 and 3 have not disclosed the said documents at the time of filing of application for revocation of leave and as such, the said document cannot be taken into consideration in the review application.
8. Heard the learned Advocates for the respective parties. Perused the materials on record and the judgment under review.
9. The defendant nos. 2 and 3 have filed the application being GA-COM/3/2025 in CS-COM/70/2025 praying for revocation of the leave granted by this Court under Section 12A of the Commercial Courts Act on the ground that the plaintiff has admitted in the plaint that the plaintiff had the knowledge with regard to the dispute since the year 2024 and subsequently he had also knowledge about the arbitration proceeding and the SLP filed before the Hon'ble Supreme Court but the plaintiff has not taken any steps for filing any suit but immediately, all off a sudden the plaintiff has filed the suit on 14th May, 2025 taking leave from this Court under Section 12A of the Commercial Courts Act.
10. This Court finds that this Court, considering the pleadings of the plaint, prayer and the cause of action, rejected the application filed by the defendant nos. 2 and 3 by refusing to revoke the leave granted

under Section 12A of the Commercial Courts Act. In the order under review, this Court has categorically recorded that the plaintiff has made out a specific case for dispensation of the provisions of Section 12A of the Commercial Courts Act, on the pretext that the plaintiff was not a party to the arbitration proceeding initiated by the defendants, wherein an award was passed on 29th June, 2023. Subsequently, the parties to the arbitration filed an application under Section 34 of the Arbitration and Conciliation Act, 1996 challenging the arbitration award. After the dismissal of the application under Section 34 of the Arbitration and Conciliation Act, 1996, an appeal was filed under Section 37 of the Arbitration and Conciliation Act, 1996. The defendant no.1 has also instituted a case in CS-COM/764/2024 for discharge of his liability to pay the amount to the plaintiff as the defendant no.1 has deposited the said amount with the Registrar of this Court.

11. Subsequently, on 12th May, 2025 the plaintiff came to know from the communication of the defendant no.1 that as per the order passed by the Hon'ble Supreme Court dated 9th May, 2025 the defendant no.2 has withdrawn the said amount. Accordingly, this Court was of the view that plaintiff was waiting for the decision of the appeal pending before the Hon'ble Supreme Court with regard to the arbitration proceeding but in the meantime, Hon'ble Supreme Court has allowed the defendant no.2 to withdraw the said amount from the Registrar of this Court but as per the suit filed by the defendant no.1, the amount is to be paid to the plaintiff. When the defendant no.2 has taken out the application, immediately the cause of action arose and the plaintiff

has filed the suit by taking leave from this Court under Section 12A of the Commercial Courts Act.

12. Considering the above, this Court finds that there is no error apparent on the face of record and the application filed by the defendant nos.2 and 3 is misconceived. Accordingly, the review application is dismissed.

13. Accordingly GA-COM/1/2025 and RVWO/33/2025 are dismissed.

(KRISHNA RAO, J.)