

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2203 OF 2026

Sanjay S. Sundarka

...Petitioner

Versus

The State Of Maharashtra Through Govt.
Pleader

...Respondent

SANTOSH
SUBHASH
KULKARNI

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Mr. Ashok Saraogi, for the Petitioner.

Ms. Snehal Jadhav, AGP for the State – Respondent No.1.

CORAM: N. J. JAMADAR, J.

DATED: 25th FEBRUARY, 2026

Oral Order:-

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to an order dated 7th January, 2026 passed by the learned Judge, City Civil Court, Dindoshi, whereby the learned Judge has refused to register the suit for want of pre-institution mediation.
3. Mr. Saraogi, the learned Counsel for the petitioner, submitted that the learned Judge has decided the Notice of Motion for interim relief without the suit having been registered, and rendered the petitioner remediless.

4. In view of the judgment of the Supreme Court in the case of *Patil Automation Private Ltd. v. Rakheja Engineers Private Ltd.*¹, if the Court finds that a commercial suit does not contemplate an urgent interim relief and yet instituted without resorting to pre-institution mediation, then the Court is empowered to reject the plaint under the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908 (“the Code”). An order of rejection of the plaint is appealable as a decree. However, that does not imply that the Court can refuse to register the suit on the ground of not resorting to pre-institution mediation. The appropriate course would be to first register the suit and then determine whether the suit contemplates an urgent interim relief. If the Court finds that, the suit does not contemplate urgent relief, the Court is empowered to reject the plaint by resorting to the provisions contained in Order VII rule 11 of the Code. Resultantly, the impugned order cannot be sustained. The impugned order stands quashed and set aside.

5. The learned Judge is requested to register the suit and then pass an appropriate order in the light of the judgments of the Supreme Court in the cases of *Patil Automation* (supra), *Ms.*

1 (2022) 10 SCC 1.

*Yamini Manohar vs. Mrs. T.K.D. Keerthi*² and *Dhanbad Fuels Private Limited vs. Union of India & Another*.³

6. The petition stands disposed.

[N. J. JAMADAR, J.]

2 (2024) 5 SCC 815.

3 2025 SCC OnLine SC 1129.