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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-02-2026

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THE HON'BLE MR.JUSTICE S. SOUNTHAR

CRP No. 1064 of 2024 and

CMP.No.5538 of 2024

M/s. P.A.Sea Impex

Rep by its Proprietor, Mr S. Parthiban,

S/o. M.N. Sankaran, No.232/205, Linghi Chetty St,

Chennai - 600 001.

..Petitioner(s)

Vs

M/s. Fumigation Services Private Limited

Rep by Assistant Manager,

Mr D. Moses, No.1, Buddu St, 3rd Floor,

P.O.Box No.1846, Chennai - 600 001.

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 04.11.2023 made in I.A.No.3/2023 in COS No.1644/2022 on the file of Honble Commercial Court, Egmore, Chennai in OS No.669/2021 on the file of XV Additional City Civil Court, Chennai by allowing the above CRP.

For Petitioner(s): P.V.Sanjeev

For Respondent(s): M/s. S. Sadasharam,

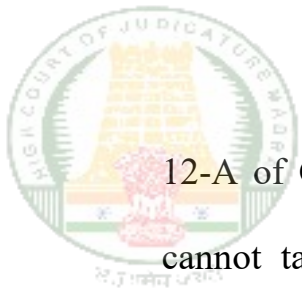


ORDER

The civil revision petition is filed challenging the order passed by the Commercial Court, Egmore, Chennai, dismissing the application filed by the petitioner seeking rejection of the plaint.

2. The respondent herein filed a suit against the petitioner before the Commercial Court seeking recovery of Rs.17,38,348/- with interest at the rate of 18% per annum. The suit was presented before the Commercial Court on 11.01.2021. The petitioner herein, who was arrayed as sole defendant, filed an application to reject the plaint on the ground that the respondent/plaintiff failed to undergo mandatory pre-litigation mediation as contemplated under Section 12-A of the Commercial Courts Act and therefore, the plaint is liable to be rejected. The said application filed by the petitioner was dismissed by the Commercial Court and aggrieved by the same, the petitioner has come before this Court.

3. The learned counsel for the petitioner by relying on the observation of the Hon'ble Apex Court in the case of *M/s.Patil Automation Private Limited and others Vs Rakheja Engineers Private Limited reported in 2022 Live Law (SC) 678*, submitted that the cut-off date fixed in the Patil Automation case is subjected to three exceptions recognised in the said judgment. The learned counsel further by relying on the judgment of this Court in *Arvind Gupta Vs Punjab National Bank, represented by its Chief Manager, Chennai reported in 2023 (1) MWN (civil) 247*, submitted that this Court already declared Section



12-A of Commercial Court Act was mandatory and therefore, the respondent cannot take advantage of the cut-off date fixed in **Patil Automation** case.

Therefore, according to him, the plaint filed by the respondent even prior to 20.08.2022 is also liable to be rejected in view of declaration of position by jurisdictional High Court namely this Court.

4. In **Patil Automation** case cited supra, while holding that Section 12-A of the Commercial Court Act is mandatory, the Hon'ble Apex Court categorically held that the said declaration is effective only from 20.08.2022. However, the Hon'ble Apex Court recognised three exceptions to the abovesaid rule in Paragraph No.84 of the judgment in **Patil Automation** case which reads as follows:-

“84. Having regard to all these circumstances, we would dispose of the matters in the following manner. We declare that Section 12A of the Act is mandatory and hold that any suit instituted violating the mandate of Section 12A must be visited with rejection of the plaint under Order VII Rule 11. This power can be exercised even suo moto by the court as explained earlier in the judgment. We, however, make this declaration effective from 20.08.2022 so that concerned stakeholders become sufficiently informed. Still further, we however direct that in case plaints have been already rejected and no steps have been taken within the period of limitation, the matter cannot be reopened on the basis of this declaration. Still further, if the order of rejection of the plaint has been acted upon by filing a fresh suit, the declaration of prospective effect will not avail the plaintiff. Finally, if the plaint is filed violating Section 12A after the jurisdictional High Court has declared Section 12A mandatory also, the plaintiff will not be entitled to the relief. (Emphasis supplied by this Court)”.



5. In the case on hand, the learned counsel for the petitioner relied on the third exception recognised by the Hon'ble Apex Court, that is plaint filed violating Section 12-A after jurisdictional High Court has declared Section 12-A is mandatory. It is the specific submission of the learned counsel that in *Arvind Gupta* case cited supra, this Court categorically declared Section 12-A of Commercial Court Act is mandatory one. In view of the same, the present plaint filed by the respondent is liable to be rejected.

6. In *Patil Automation* case, the Hon'ble Apex Court categorically held that if the plaint is filed violating Section 12-A after jurisdictional High Court has declared Section 12-A is mandatory, the plaintiff is not entitled to the benefit of the prospective applicability of *Patil Automation* case. According to the learned counsel for the petitioner, this Court declared the mandatory nature of Section 12-A of Commercial Court Act in *Arvind Gupta* case. A perusal of the said judgment would indicate that the judgment in *Arvind Gupta* case was delivered only on 10-12-2022 that too subsequent to delivery of judgment in *Patil automation* case. In the present case, the plaint was filed as early as 11-01-2021 well prior to the cut-off date fixed in *Patil automation* case and also date of delivery of judgment in *Arvind Gupta* case. Therefore, the present case will not come under any of the exceptions recognised by the Hon'ble Apex Court in Paragraph No.84 of the judgment in *Patil automation* case. Therefore, I am not impressed by the line of arguments made by the learned counsel for the petitioner. Accordingly, the civil revision petition stands dismissed by



confirming the order passed by the trial court.

7. After passing of the order, the learned counsel for the petitioner submitted that in ***Dhanbad Fuels Private Limited Vs Union of India and another reported in (2025) 9 SCC 424***, the Hon'ble Apex Court referred the suit which was filed prior to 12.08.2022 without complying mandatory mediation contemplated under Section 12-A of Commercial Court Act for mediation by keeping the suit in abeyance. Therefore, this matter may also be referred to mediation. The relevant direction issued by the Hon'ble Apex Court in ***Dhanbad Fuels Private Limited*** case reads as follows:-

“71(10). In suits instituted without complying with Section 12-A of the 2015 Act prior to 20-8-2022 which are pending adjudication before the trial court, the court shall keep the suit in abeyance and refer the parties to time-bound mediation in accordance with Section 12-A of the 2015 Act if an objection is raised by the defendant by filing an application under Order 7 Rule 11, or in cases where any of the parties expresses an intent to resolve the dispute by mediation”.

8. In the case on hand, the petitioner raised objections regarding maintainability of the plaint by filing Order VII Rule 11 application, complaining non-compliance of Section 12A of Commercial Court Act. Therefore, the trial court is directed to keep the suit in abeyance and refer the parties to mediation to explore the possibility of resolving the dispute between



them. If the matter is not settled in mediation, then the suit shall be taken up for hearing and disposed of in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

02-02-2026

Index: Yes

Speaking order

Neutral Citation: Yes

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To

1. The Commercial Court, Egmore, Chennai.
2. The XV Additional City Civil Court, Chennai.



WEB COPY

CRP No. 1064 of 2



S.SOUNTHAR, J.

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02-02-2026