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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 113/2026, I.A. 3275/2026, I.A. 3276/2026
M/S. ROLEXCO BUILDTech OPC PRIVATE LIMITED

.....Plaintiff

Through: Mr. Sandeep Sharma, Senior
Advocate with Mr. Shrey Chathly,
and Ms. Vinita Sharma, Advocates.

versus

SH. SUNDER LAL GUPTA & ORS.

.....Defendants

Through: Mr. Shivam Goel, Ms. Ramya S. Goel
and Ms. Sanya Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

12.02.2026

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1. The present Suit has been filed by the Plaintiff without following the mandatory provision of Section 12-A of the Commercial Courts Act, 2015 i.e., Pre-Institution Mediation and Settlement.

2. After perusing the Plaint as well as the interim application seeking exemption from instituting pre-litigation mediation, this Court is of the opinion that there is nothing on record which satisfies the test laid down by the Apex Court in Yamini Manohar v. T.K.D. Keerthi, (2024) 5 SCC 815, which would justify the Plaintiff having circumvented the mandatory procedure as prescribed under Section 12-A of the Commercial Courts Act, 2015. Relevant observations of the Apex Court in the said Judgment read as under:

“10. We are of the opinion that when a plaint is filed under the CC Act, with a 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 mask to wriggle out of and get over Section 12-A of the CC Act. The facts and circumstances of the case have to be considered holistically from the standpoint of the plaintiff. Non-grant of interim relief at the ad interim stage, when the plaint is taken up for registration/admission and examination, will not justify dismissal of the commercial suit under Order 7 Rule 11 of the Code; at times, interim relief is granted after issuance of notice. Nor can the suit be dismissed under Order 7 Rule 11 of the Code, because the interim relief, post the arguments, is denied on merits and on examination of the three principles, namely : (i) prima facie case, (ii) irreparable harm and injury, and (iii) balance of convenience. The fact that the court issued notice and/or granted interim stay may indicate that the court is inclined to entertain the plaint.

11. Having stated so, it is difficult to agree with the proposition that the plaintiff has the absolute choice and right to paralyse Section 12-A of the CC Act by making a prayer for urgent interim relief. Camouflage and guise to bypass the statutory mandate of pre-litigation mediation should be checked when deception and falsity is apparent or established. The proposition that the commercial courts do have a role, albeit a limited one, should be accepted, otherwise it would be up to the plaintiff alone to decide whether to resort to the procedure under Section 12-A of the CC Act. An “absolute and unfettered right” approach is not justified if the pre-institution mediation under Section 12-A of the CC Act is mandatory, as held by this Court in Patil Automation [Patil Automation (P) Ltd. v. Rakheja Engineers (P) Ltd., (2022) 10 SCC 1 : (2023) 1 SCC (Civ) 545] .

12. The words “contemplate any urgent interim relief” in Section 12-A(1) of the CC Act, with reference to the suit, should be read as conferring power on the court



to be satisfied. They suggest that the suit must “contemplate”, which means the plaint, documents and facts should show and indicate the need for an urgent interim relief. This is the precise and limited exercise that the commercial courts will undertake, the contours of which have been explained in the earlier paragraph(s). This will be sufficient to keep in check and ensure that the legislative object/intent behind the enactment of Section 12-A of the CC Act is not defeated.”

3. Faced with the above position, learned Senior Counsel appearing for the Plaintiff seeks permission to withdraw the present Suit, with liberty to follow the mandatory provision of Section 12A of the Commercial Courts Act, 2015 and thereafter approach this Court, in case the mediation between the Parties fails.
4. Permission and liberty, as sought for, are granted.
5. The Suit is disposed of as withdrawn, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

FEBRUARY 12, 2026

S. Zakir