



\$~44

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **TR.P.(C.) 91/2025**

NATH PAPER PVT. LTD.

.....Petitioner

Through: Mr. Jitendra Kalra, Adv. (through
VC).

versus

THE PACKAGING COMPANY & ANR.

.....Respondents

Through: None (*ex-parte*)

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

%

07.05.2026

1. This hearing has been done through hybrid mode.
2. The present petition under Section 15(2) of the Commercial Courts Act, 2015, read with Section 24 of the CPC seeks the following prayers:-

“(i) Allow this present transfer civil petition under section 15 (2) of The Commercial Courts Acts, 2015 read with section 24 of CPC for transferring the case titled as "Nath paper pvt. Ltd. Vs The Packaging Company" with the case bearing no. CS No. 87/2019 (Old), CS No. 697/24 (New) from the Hon'ble Court of Sh. Hem Singh, DJ-O1, East District, KKD courts, Delhi to a commercial court within the jurisdiction of East District, KKD Courts, Delhi who has competent jurisdiction to try and proceed the above mentioned suit at the similar stage of final arguments.

(ii) To exempt the essential & mandatory provisions of the Commercial Courts Act, 2015 by this Hon'ble court in favor of



petitioner and direct to trial court to take this case as from its Final Argument Stage.

(iii) To exempt the petitioner from filing the certified copies of annexures.

(iv) Further pass any appropriate order as the court may deem fit in the facts and circumstances of the present case in the interest of justice, equity and good conscience.”

3. By way of the present petition, the petitioner seeks transfer of suit bearing no. CS No. 87/2019 (Old) (CS No. 697/24 (New)), titled as, "Nath paper pvt. Ltd. Vs The Packaging Company" instituted by the petitioner for recovery of sum of Rs.3,49,847/- along with late payment charges @ 24 % per annum from the respondents/defendants pending in the Court of learned District Judge-01, East District, Karkkardooma Courts, to a Commercial Court of competent jurisdiction.

4. It is stated in the petition that summons were served on the respondents/defendants, and despite being granted opportunities, written statement was not filed by the respondents/defendants, and their right to file same has already been struck off by learned Trial Court *vide* order dated 01.12.2021, and the matter is presently at the stage of final arguments. It is further stated that the subject suit was filed on 31.01.2019, and at that time, the filing of commercial suits in Commercial Court under the Act of 2015 had not started, and therefore, for this reason, the suit was instituted as an ordinary civil suit instead of commercial suit.

5. Learned counsel for the petitioner submits that during the course of proceedings in the subject suit on 28.05.2024, learned District Judge observed that the subject suit was filed on 31.01.2019, and is a commercial dispute as



per Section 2(c)(xviii) of the Commercial Courts Act, 2015, and in view of minutes of meeting dated 04.02.2020 of Hon'ble State Court Management Systems Committee (SCMSC), all commercial suits filed after 03.05.2018 shall be heard and decided by the Commercial Courts only. It is further submitted that as the subject suit is at the stage of final arguments, the mandatory requirement with respect to pre-institution mediation and settlement in terms of Section 12A of the Commercial Courts Act, 2015, may be dispensed with. It is further submitted that the respondents have already been proceeded *ex-parte* before this Court in the present petition as well as before the learned Trial Court, and therefore, no prejudice will be caused, in case the present petition is allowed and the subject suit is transferred to the Commercial Court of competent jurisdiction.

6. It is further submitted that *vide* order dated 23.11.2024 passed by learned Principal District & Sessions Judge, East District, Karkardooma Courts, Delhi, in T.P.(Civil) No.53/24, the subject suit was assigned to learned District Judge, (Commercial Court-01), East District; however, the said order has now been recalled *vide* order dated 25.11.2024 by learned PDJ.

7. The subject suit was instituted on 31.01.2019, and at that time filing of commercial suits in the Commercial Courts under the Commercial Courts Act, 2015, had not started, and the same was instituted as ordinary civil suit instead of commercial suit. The suit is presently at the stage of final arguments before the learned District Judge-01, East, Karkardooma Courts, Delhi. As per minutes of meeting dated 04.02.2020 of Hon'ble SCMSC, all commercial suits filed after 03.05.2018 shall be heard and decided by the Commercial Courts only.

8. Learned Coordinate Bench of this Court in **Namita Gupta v. Suraj**



Holdings Limited, 2024 SCC OnLine Del 143: (2024) 312 DLT 242, in similar circumstances with respect to compliance of Section 12A of the Commercial Courts Act, 2015, where a suit is being transferred to a Commercial Court in exercise of powers under Section 24 of the CPC, had observed and held as under: -

“**61.** The learned counsel for the petitioner has rightly pointed out that the Suit, which has been filed before the Ordinary Civil Court, may not be complying with the special pleadings, may not contain the Statement of Truth or the affidavit in the prescribed form, and may not even have complied with the provisions of Section 12A of the Act. However, in my view, once it is conceded that the plaint of a Suit filed before the ordinary Civil Court can be returned to be filed before a Commercial Court after making necessary amendments thereto in the form of necessary pleadings, attachment of Statement of Truth, and affidavits, even where the Suit is transferred in the exercise of powers under Section 24 of the CPC, the plaintiff will have to make such necessary amendments in the Suit. Merely because such amendments may have to be made by the plaintiff on transfer of the Suit, the High Court cannot be denuded of the power which it has under Section 24 of the CPC.

64. As far as non-compliance with Section 12A of the Act is concerned, the Transferee Court shall consider the said objection on merits upon the transfer of the Suit. The transfer of the Suit does not, in any manner, affect the right of the defendant to contend that the Suit has been filed without any cause of action or is otherwise barred by any provision of law or is liable to be dismissed under Order VII Rule 11 of the CPC for any other reason, including for the failure of the plaintiff to initiate pre-suit mediation as mandated under Section 12A of the Act. These objections would remain open to the defendant even on the transfer of the Suit under Section 24 of the Act.”

9. In the subject suit, the respondents/defendants have already been proceeded *ex-parte* before learned Trial Court *vide* order dated 01.12.2021. In



the present petition, notice was issued to them *vide* order dated 17.07.2025. Report with regard to the same reflects that the respondents had refused to accept notice. As per affidavit of service filed by the petitioner, respondents had been duly served through courier. In these circumstances, and on account of no appearance on behalf of the respondents, despite service, they were proceeded *ex-parte* and their right to file reply was closed by learned Predecessor Bench of this Court *vide* order dated 09.12.2025. In view thereof, the mandatory requirement with respect to pre-institution mediation and settlement in terms of Section 12A of the Commercial Courts Act, 2015, is dispensed with.

10. The present petition is disposed of with direction that suit, CS No. 87/2019 (Old) (CS No. 697/24 (New)), titled as, "Nath paper pvt. Ltd. Vs The Packaging Company" instituted by the petitioner against the respondents/defendants and pending in the Court of learned District Judge-01, East District, Karkkardooma Courts, is transferred to learned District Judge, Commercial Court, East District, Karkkardooma Courts, Delhi. The subject suit shall be proceeded from the stage it is being transferred.

11. Let the records of suit, CS No. 87/2019 (Old) (CS No. 697/24 (New)), pending before the Court of learned District Judge-01, East District, Karkkardooma Courts, Delhi, be transferred to the concerned Transferee Court within a period of 10 days.

12. Parties are directed to appear before the learned District Judge, Commercial Court, East District, Karkkardooma Courts, Delhi, accordingly.

13. Copy of the order be sent to learned District Judge-01, East District, Karkkardooma Courts, Delhi, as well as learned District Judge, Commercial Court, East District, Karkkardooma Courts, Delhi, for necessary information



and compliance.

14. Pending applications, if any, also stand disposed of accordingly.
15. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

MAY 7, 2026/nk/ns