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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 299/2024 & CM APPL. 55110/2024, CM APPL. 55111/2024**
SMT RAJ RANI SAINIAppellant

Through: Ms. Pooja Chhabra and Mr. Pradeep
Kumar, Advocates

versus

SH SANJAY NARANGRespondent

Through: Mr Anil Kumar Tripathi, Adv.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **08.01.2026**

CM Appl.55110/2024 [for exemption]

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

FAO 299/2024 & CM APPL.55111/2024 [for interim order]

1. The present appeal has been filed under Section 104 and Order XLIII Rule 1(a) CPC in the context of order dated 07.05.2024 passed by the learned District Judge-04 (West), *Tis Hazari Courts, Delhi*, whereby the plaint in the civil suit has been returned to be filed before the appropriate commercial court.
2. During the course of arguments, Ms. *Pooja Chhabra*, learned counsel for the appellant, submits that the appellant's plea may be considered in a limited manner and, accordingly, confines the prayer to the relief sought in clause "D", wherein the appellant prays that:

"d) In the alternative, if this Hon'ble Court deems it appropriate, kindly transfer the suit to the court with appropriate jurisdiction to adjudicate the matter, ensuring that the suit proceeds from the same stage at which it was returned by the Learned Trial Court."



3. In this regard, learned counsel for the appellant, in further support of her submissions, has placed reliance on a decision rendered by a Coordinate Bench of this Court in Namita Gupta vs. Suraj Holdings Limited¹. In particular, learned counsel placed reliance on the following:

“63. As noted hereinabove, Section 16 of the Act provides that the provisions of the CPC shall apply to any Suit in respect of Commercial Dispute of a Specified Value, subject to the amended provisions thereof as provided in the Schedule appended to the Act. Section 24 of the CPC is not a provision which has been amended by the said Schedule. It, therefore, continues to apply in full force to a Suit in respect of a Commercial Dispute of a Specified Value. If the Legislature wanted to take away this power from the Court, it would have expressly stated so by deleting the said provision in the Schedule to the Act; it did not do so. There is also no implied exclusion of this power, as this power, in no manner, is in conflict with any provisions of the Act.

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.”

4. Reference is also made to the judgment of the Supreme Court in M/s Dhanbad Fuels Private Limited vs. Union of India & Anr². The relevant extract of the same is as under:

“63. Thus, the answer to the question formulated by us whether a suit filed without complying with Section 12A of the 2015 Act must be dismissed or be kept in abeyance with a direction to the parties to explore mediation is as follows: a. If the suit is instituted on or after

¹ 2024:DHC:122 in CM(M) 457/2023 & CM.APPL. 13165/2023, decided on: 09.01.2024.

² Judgment rendered on 15.05.2025 in Civil Appeal No.6846 of 2025 @ Special Leave Petition(C) No.4980 of 2021.



the date of the decision in Patil Automation (supra), i.e., 20.08.2022, without complying with Section 12A of the 2015 Act, then it must meet with rejection under Order VII Rule 11, either on an application by the defendant or suo motu by the court. b. If the suit was instituted prior to 20.08.2022 without complying with Section 12A of the 2015 Act, and the same does not fall within one of the exceptional categories as explained in paragraph 47 of this judgment, then it would be open to the court to keep the suit in abeyance and direct the parties to explore the possibility of mediation in accordance with the 2015 Act, the PIMS Rules and the 2020 SOP.”

5. Learned counsel for the respondent submits that he has no objection to the appellant's limited prayer, as stated above, being considered and, on instructions, further states that he has no objection if the subject suit is transferred *as it is* to the appropriate Commercial Court.

6. Considering the submissions made on behalf of the appellant and there being no objection raised by the learned counsel for the respondent, the relief as prayed for by the appellant under clause “D” of the prayer is granted. In view of the no-objection expressed by the learned counsel for the respondent, the suit is directed to be transferred, as it stands, to the appropriate Commercial Court. For the said purpose, the matter shall at the first instance be listed before the learned Principal District & Sessions Judge on 21.01.2026 for directions.

7. The present appeal, along with the application, is disposed of in the above terms.

MANOJ KUMAR OHRI, J

JANUARY 08, 2026

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