
Calcutta High Court Upholds Maintainability Of Commercial Suit On Grounds Of Urgency Of The Reliefs

Authors: *Vasanth Rajasekaran* and *Harshvardhan Korada*

Introduction

The Calcutta High Court, in ***Haldibari Tea Manufacturers LLP v. Mahindra Tubes Ltd.*** [CO 204 of 2024] rejected a challenge under Order VII Rule 11 of the Code of Civil Procedure (CPC) read with Section 12A of the Commercial Courts Act, 2015, and upheld the maintainability of a commercial suit filed by Haldibari Tea Manufacturers LLP against, *inter alia*, Mahindra Tubes Limited.

The High Court ruled that since the suit contemplated urgent interim relief and an application under Order XXXIX Rule 1 and 2 of the CPC had been filed simultaneously, the mandatory requirement of pre-institution mediation under Section 12A was not violated. In this article, we examine the facts of the case and the findings rendered by the High Court.

Brief Facts

The dispute arose from a partnership and financial transaction between the parties. The plaintiffs claimed that they had been induced to invest in the defendant company based on misrepresentations regarding the ownership and financial health of the business. The plaintiffs alleged that they had been fraudulently deprived of their controlling stake, and the defendants had entered into a consent award in an arbitration proceeding without involving them.

Seeking to restrain the defendants from acting on the alleged fraudulent consent award, the plaintiffs filed a commercial suit on 15 March 2023, along with an application for urgent interim relief under Order XXXIX Rule 1 and 2 of the CPC. The Commercial Court initially refused to grant an *ex parte* injunction due to a minor deficit in court fees, which was later rectified. The defendants, however, moved an application under Order VII Rule 11 CPC seeking rejection of the plaint on the ground that the suit was filed without exhausting the mandatory requirement of pre-institution mediation under Section 12A of the Commercial Courts Act.

The Commercial Court dismissed the defendants' application on 10 September 2024, leading them to file a revisional application before the Calcutta High Court challenging the maintainability of the suit.

Arguments from Both Sides

The defendants contended that Section 12A of the Commercial Courts Act, 2015 is mandatory, and the suit could not have been filed without first undertaking pre-institution mediation. They relied on the Supreme Court's decisions in ***Patil Automation Pvt. Ltd. v. Rakheja Engineers Pvt. Ltd.*** [(2022) 10 SCC 1] and ***Yamini Manohar v. T.K.D. Keerthi*** [(2024) 5 SCC 815], which held that suits filed without pre-institution mediation should be rejected unless they clearly contemplate urgent interim relief. The defendants further argued that the plaint did

not demonstrate any urgency, and the mere filing of an application under Order XXXIX Rule 1 and 2 CPC could not be used as a pretext to bypass Section 12A.

On the other hand appearing for the plaintiffs, countered that the suit was urgently filed to restrain the defendants from acting upon a fraudulent consent award passed in the arbitration proceedings. He emphasised that the mere rejection of an *ex parte* interim relief does not negate the urgency of a suit. Relying on the Division Bench ruling in ***Gavril Metal Pvt. Ltd. v. Maira Fabricators Pvt. Ltd.*** [APD 3 of 2022], he argued that even a weak case for urgency is sufficient to bypass pre-institution mediation.

Findings of the High Court

The High Court extensively analysed the scope of Section 12A of the Commercial Courts Act and reiterated that pre-institution mediation is mandatory unless the suit demonstrates urgency. However, the High Court found that the plaintiffs had indeed contemplated urgent interim relief at the time of filing the suit.

The High Court observed that the plaint clearly detailed the imminent threat posed by the defendants' actions, particularly their reliance on a fraudulent consent award. Since the plaintiffs had filed an injunction application alongside the suit, the urgency requirement under Section 12A was satisfied.

The judgment clarified that the test for urgency is not whether an *ex parte* injunction was granted but whether the suit, on its face, seeks urgent relief. The High Court distinguished this case from ***Patil Automation (supra)***, noting that in that case, the plaint did not demonstrate urgency at all, whereas here, the plaintiffs had promptly moved the Commercial Court for an urgent order.

Furthermore, the High Court emphasised that judges have a limited role in screening out deception or falsity in claims of urgency but must still examine whether the plaint, in a holistic reading, discloses a case of urgency. It ruled that a plaintiff cannot be penalised merely because an *ex parte* injunction was not granted, as long as the suit itself indicates that urgent relief was sought.

Additionally, the High Court held that the practice directions issued by the Calcutta High Court on 23 November 2023, requiring a judge to explicitly record satisfaction regarding urgency, were inapplicable in this case since the suit was filed before the practice directions were published. Accordingly, the High Court dismissed the revisional application and upheld the Commercial Court's decision refusing to reject the plaint.

Comment

This ruling reaffirms that Section 12A of the Commercial Courts Act is mandatory, but at the same time, it recognises that courts must adopt a pragmatic approach in assessing urgency. The judgment rightly holds that the rejection of an *ex parte* interim relief does not automatically negate the urgency of a case. If the plaint itself demonstrates an imminent threat, the suit should not be rejected for failing to undergo pre-institution mediation.

By distinguishing **Patil Automation (supra)** and interpreting **Yamini Manohar (supra)** in light of the specific facts, the High Court has provided much-needed clarity on how Section 12A should be applied. The ruling strikes a balance between ensuring that commercial disputes undergo mediation before litigation while not frustrating urgent claims that require immediate judicial intervention.

The decision also serves as a warning against procedural tactics aimed at stalling commercial litigation. Defendants cannot weaponize Section 12A to delay suits where urgency is legitimately pleaded. This ruling strengthens the framework for commercial dispute resolution, reinforcing that procedural laws should facilitate justice rather than impede it.

Going forward, plaintiffs must carefully draft their pleadings to clearly articulate the urgency of their claims at the time of filing. This case underscores the importance of substance over form in litigation, ensuring that procedural requirements do not become tools for obstruction.

Contact

For any query, help or assistance, please reach out at info@trinitychambers.in or visit us at www.trinitychambers.in.

Authors



Vasanth Rajasekaran
Founder & Head
vasanth@trinitychambers.in



Harshvardhan Korada
Counsel
harshvardhan@trinitychambers.in