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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
IN ITS COMMERCIAL DIVISION  
INTERIM APPLICATION NO.6465 OF 2025  
IN  
COMMERCIAL SUIT NO. 110 OF 2025**

**Mumbai International Airport Limited**

Office of the Airport Director  
Terminal – 1B, CSI Airport  
Mumbai, Maharashtra  
India 400 099

... Applicant  
Defendant No.3

**In the matter between**

**1. ICICI Bank Limited**

A banking company incorporated under Companies Act, 1956, having its registered Office at ICICI Bank Tower, Near Chakli Circle, Old Padra Road, Vadodara-390 007, Gujarat, India acting through its Bahrain Branch located at Suite No. 15, Municipality No. 116, PO Box No. 1494, Building No. 114, Government Avenue, Manama-316, Bahrain, in its capacity as Facility Agent

... Plaintiff

**Versus**

**1. GVK Airport Developers Limited**

Having its registered office at Paigah House, 156-159, S.P. Road, Secunderabad, Telangana, India-500 003

and also having its office at Adani Corporate House, Shantigram Near Vaishno Devi Circle, S. G. Highway, Khodiyar, Ahmedabad, Gujarat, India-382 421

.... Respondent No. 1  
Ori. Defendant No. 1

2. **GVK Airport Holdings Limited**

(Previously known as GVK Airport Holdings Private Limited) having its registered office at Paigah House, 156-159, S.P. Road, Secunderabad, Telangana, India-500 003 and also having its office at Adani Corporate House, Shantigram Near Vaishno Devi Circle, S. G. Highway, Khodiyar, Ahmedabad, Gujarat, India-382 421

Respondent No. 2/  
Org. Defendant No. 2

3. **Mumbai International Airport Limited**

Office of the Airport Director  
Terminal -1B, CSI Airport,  
Mumbai, Maharashtra, India-400 099

Respondent No. 3/  
Org. Defendant No. 3

4. **Adani Airport Holdings Limited**

Adani Corporate House,  
Shantigram, Near Vaishno Devi Circle,  
S. G. Highway, Khodiyar, Ahmedabad  
Gujarat, India 382 421

Respondent No. 4/  
Org. Defendant No. 4

Mr. Darius Khambata, Senior Advocate a/w. Mr. Ashish Kamat, Senior Advocate a/w. Mr. Rohan Dakshini, Ms. Shweta Jaydev, Ms. Pooja Vasandani, Ms. Feroz Bharucha and Ms. Nupur Toshniwal i/b. M/s. Rashmikant and Partners for Applicant/Defendant no. 3.

Mr. Venkatesh Dhond, Senior Advocate a/w. Mr. Samarth Jaidev i/b. Mr. Sagar Divekar, Mr. Abhimanyu Mhapankar for the Plaintiff.

Mr. N. Venkatraman, Assistant Solicitor General a/w. Mr. Pravin Samdani, Senior Advocate a/w. Mr. Vijay Purohit, Mr. Faizan Mithaiwala, Mr. Vinit Kamdar i/b. P & A Law for Airport Authority of India.

Mr. Vikram Nankani, Senior Advocate a/w. Mr. Rahul Kamerkar and Ms. Aparajita R. Jha for Defendant Nos. 1 and 2.

Mr. Mayur Khandeparkar a/w. Mr. Sumit Nankani, Mr. Rahul Kamerkar and Ms. Aparajita R. Jha for Defendant No. 4.

**CORAM : GAURI GODSE, J.**

**RESERVED ON: 6<sup>th</sup> NOVEMBER 2025**

**PRONOUNCED ON: 20<sup>th</sup> FEBRUARY 2026**

**JUDGMENT:**

**Basic Facts:**

1. This application is filed by defendant no. 3 for rejection of the plaint under clause (a) and (d) of Rule 11 of Order VII

of the Code of Civil Procedure, 1908 (“CPC”). The suit seeks a permanent injunction restraining the defendants from taking any action that is detrimental to the obligations undertaken under the Interim Solution Undertaking (“ISU”) dated 23<sup>rd</sup> March 2017, read with the Share Pledge Agreement dated 24<sup>th</sup> March 2017 (“SPA”). The plaintiff also prays for directing the defendants to provide additional security to restore the effective economic interest of the lenders in defendant no. 3. In the alternative the plaintiff has prayed for directing defendants to jointly and severally pay damages for the loss suffered by the lenders due to loss of security and default under the facility agreements and the ISU and in particular pursuant to the breach of Clause 4.1(e) of the ISU read with Clause 5.1(1) and 5.2(e) of the SPA.

2. As per the plaint, the suit is filed by the plaintiff in the capacity as a facility agent pursuant to a consortium of lenders comprising the ICICI Bank Limited, Bank of Baroda, Bank of India, Canara Bank and Indian Overseas Bank for providing a loan facility of USD 1 Billion to GVK Coal Developers (Singapore) Pte. Ltd.(GVKCDL) by entering into the facility agreement dated 17<sup>th</sup> September 2011 as

amended from time to time and increased to USD 250 Million. In view of payment defaults to the lenders, negotiations were held between GVKCDL and other GVK group companies. Thus, the lenders entered into the ISU with GVK Airport Developers Limited (defendant no. 1), GVK Airport Holdings Limited (defendant no. 2), GVKCDL, GVK Power & Infrastructure Limited, and Bangalore Airport and Infrastructure Developers Private Limited. In the said ISU, defendant nos. 1 and 2 are defined as obligors.

3. The plaintiff pleaded that under the ISU, defendants nos. 1 and 2 were under an obligation to create a first-ranking exclusive pledge over 32% issued and fully paid up equity share capital of defendant no. 2, which shall be equivalent to 16.16% of the Equity Capital of defendant no. 3 under the SPA for the benefit of the lenders. The plaintiff has pleaded about the defendants' shareholding structure. According to the plaintiff, Adani Airport Holdings Limited (defendant no. 4) holds 97.97% shares in defendant no.1. Defendant no. 1 holds 100% holdings of defendant no. 2. Defendant no. 2 holds 50.50% holding in defendant no. 3. The additional 23.50% of defendant no. 3's holdings are

directly held by defendant no. 4.

4. The suit is filed pursuant to the rights issue subscribed by defendant no. 3, due to which the economic interest of the plaintiff as lender stands reduced. Hence, the plaintiff has filed this suit along with an application seeking interim relief in the form of an order of temporary injunction restraining the defendants from taking any action that is detrimental to the pledge created in favour of the lenders and to the obligations undertaken under the ISU and the SPA.

5. Considering the urgent interim relief prayed by the plaintiff, the suit is filed without following the mandatory provisions under Section 12A of the Commercial Court Act, 2015 (“the said Act”). Defendant no. 3, by this application, prays for rejection of the plaint at the threshold under clauses (a) and (d) of Rule 11 of Order VII of the CPC. According to defendant no. 3, there is no cause of action against defendant no. 3, as defendant no. 3 is not a party to any of the agreements that are the subject matter of the suit, and the bar under Section 12A applies as no urgent interim relief is contemplated.

**Submissions on behalf of the Applicant (Defendant no. 3):**

6. The submissions made on behalf of defendant no. 3 for rejection of the plaint are summarised as under :

(a) Defendant no.1 has created an exclusive pledge over an additional 16% of the equity capital of defendant no.2 on a diluted basis. However, no obligation is imposed on the defendant. 3, as none of the agreements is signed by defendant no.3. The suit seeks to enforce the alleged obligation arising under the ISU and the SPA executed between the consortium of lenders and defendant nos. 1 and 2.

(b) In June 2025, defendant no. 3 resolved to undertake a rights issue subsequent to board resolutions to repay its debts. The rights issue opened on 21<sup>st</sup> June 2025 and concluded on 3<sup>rd</sup> July 2025. The plaintiff filed the present suit on 4<sup>th</sup> July 2025, seeking to restrain defendant no. 3 from proceeding with the rights issue. On 12<sup>th</sup> August 2025, the plaintiff deleted and abandoned the prayers regarding the rights issue and introduced new reliefs seeking enforcement of the contractual obligations under both agreements. In view

of the fresh reliefs, the plaintiff seeks prayers against defendant no. 3 to provide additional security, pay damages and restore the effective economic interest of the plaintiff in defendant no. 3, though defendant no. 3 is not a party to both agreements. Thus, it is evident that the whole charge of the plaintiff is only against defendant nos. 1, 2 and 4.

(c) The entire plaint demonstrates that there is no independent breach of contract by defendant no. 3. All the allegations are against defendant nos. 1, 2 and 4. Thus, there is no cause of action against defendant no. 3. The amended plaint would relate back to the date of filing of the suit, and thus, in view of the amended plaint, no urgent interim relief is contemplated. On the theory of relation back, the learned senior counsel for defendant no. 3 relied upon the decision of the Apex Court in the case of *Priti Pal Singh vs. Amrik Singh*<sup>1</sup>.

(d) For rejection of the plaint as a whole, only against defendant no. 3 under Order VII Rule 11 (a) on the ground that there is no cause of action against defendant no. 3, learned senior counsel for defendant no. 3 relied upon the

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<sup>1</sup> (2013) 9 SCC 576

legal principles settled by the Hon'ble Apex Court in *Church of Christ Charitable Trust v. Ponniamman Educational Trust*<sup>2</sup>, the learned Division Bench of this court in *Sheela Ram Vidhani v. S. K. Trading Company and Others*<sup>3</sup> and the learned Single Judge of this Court in *Chetana Shankar Manpure v. Bandu*<sup>4</sup>. He submitted that it is a well-settled legal principle that a plaint can be rejected in its entirety qua a particular defendant where the pleadings disclose no cause of action against such defendant.

(e) Such rejection is distinct from a “partial rejection” of the plaint by dissecting its pleadings, which is not permissible as held by the Apex Court in *D. Ramachandran v. R. V. Janakiraman & Ors.*<sup>5</sup> and *Roop Lal Sathi v. Nachhattar Singh Gill*<sup>6</sup>.

(f) The learned Single Judge of this Court in *Kaycee Corporation vs. Suresh Ramchand Mehta*<sup>7</sup>, held that a plaint cannot be rejected against one of the defendants. However, this decision is not a good law as it fails to follow the binding

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2 (2012) 8 SCC 706

3 2021 SCC OnLine Bom 864

4 (2020) 4 Mah LJ 481

5 (1999) 3 SCC 267

6 (1982) 3 SCC 487

7 2025 SCC OnLine Bom 1431

judgment of the learned Division Bench of this Court in ***Sheela Ram Vidhani***. The Division Bench considered the conflict between the judgments of the two coequal benches of the Apex Court in ***Sejal Glass Ltd. vs. Navilan Merchants Private Limited***<sup>8</sup> and ***Church of Christ***. The Division Bench then categorically laid down the law by holding that the earlier decision of the Apex Court in ***Church of Christ*** must be followed, which held that the plaint as a whole can be rejected against some of the defendants.

(g) The reliefs in the plaint based on the contractual obligations of defendant nos. 1 and 2, with no contractual nexus with defendant no. 3 deserves rejection of the plaint as a whole qua defendant no. 3. The doctrine of privity of contract precludes a third party from being made liable under the contract to which it is not a party. Hence, the plaint is also liable to be rejected as barred by implied bar. To support his submissions, learned senior counsel for defendant no. 3 relied upon the decisions of the Apex Court in the case of ***M. C. Chacko vs. State Bank of Travancore***<sup>9</sup> and ***Cox & Kings Ltd. v. SAP India Pvt. Ltd.***<sup>10</sup> To support his submissions that

8 (2018) 11 SCC 780

9 (1969) 2 SCC 343

10 (2024) 4 SCC 1

the plaint can be rejected as there is an implied bar to file a suit against the non-contracting party, learned senior counsel for defendant no. 3 relied upon the legal principles settled by the Apex Court in the case of *The Correspondence, R.B.A.N.M.S Educational Institution v. B. Gunashekar and Another*<sup>11</sup>.

(h) The allegations in the plaint regarding a group control or common management or that defendants are a single economic unit would not overcome the bar of privity, and thus the plaint would be barred on the ground of no privity of contract with defendant no.3.

(i) To support his submissions for rejection of the plaint for non-compliance with Section 12A, learned senior counsel for defendant no. 3 relied upon the legal principles settled in the decision of *Patil Automation Private Limited and others vs. Rakheja Engineers Private Limited*<sup>12</sup> and *Dhanbad Fuels Pvt. Ltd. vs. Union of India and Another*<sup>13</sup>. He submitted that the Apex Court in the case of *Yamini Manohar v. T. K. D. Keerthi*<sup>14</sup> concluded that if the invocation of urgency is

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11 2025 INSC 490

12 (2022) 10 SCC 1

13 (2025) SCC OnLine SC 1129

14 (2024) 5 SCC 815

illusory, the plaint would be liable to be rejected at the threshold.

(j) Leaned senior counsel for defendant no. 3 therefore submits that the plaint is liable to be rejected as barred for non-compliance with the mandatory provisions of Section 12A, the implied bar for maintaining the suit against a non-contracting party and also under clause (a) of Rule 11 of Order VII, as there is no cause of action against defendant no. 3.

**Submissions on behalf of defendant nos. 1 and 2 :**

7. The submissions made on behalf of defendant nos. 1 and 2 for rejection of the plaint are summarised as under:

(a) The prayer for amendment to the plaint was allowed, with the objection under Section 12A left open. Learned senior counsel for defendant nos. 1 and 2 supported the submissions made on behalf of defendant no. 3 on the rejection of the plaint for non-compliance under Section 12A, including the submissions on the theory of relation back due to the amendment. He also relied upon the decision of the Hon'ble Apex Court in the case of *Novenco*

*Building and Industry A/S. vs. Xero Energy Engineering Solutions Pvt. Ltd. and Another*<sup>15</sup> and *Asian Hotels (North) Ltd. vs. Alok Kumar Lodha and Others*<sup>16</sup>.

**Submissions on behalf of Defendant no. 4 :**

8. The submissions made on behalf of defendant no. 4 for rejection of the plaint are summarised as under :

(a) Learned counsel for defendant no. 4 also supported the submissions made on behalf of defendant nos. 1 to 3. He submits that even if the plaintiff claims that non-compliance with Section 12A is required to be considered from the standpoint of the plaintiff, in view of the amendment, the plaintiff's prayer is a make-belief relief that there is urgent interim relief. The prayer for damages cannot warrant any interim relief in as much as, in the present case, the plaintiff has crystallised a claim for damages; therefore, there is no reason for any interim relief in aid of the prayers for damages. According to the plaintiff, the claim is already pending in the court at Secunderabad. Hence, no case is made out for the waiver of Section 12A. Learned counsel for defendant no. 4 relies

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15 2025 SCC Online SC 2378

16 (2022) 8 SCC 145

upon paragraph 20 of the judgment of this court in the case of *Kamla Landmarc Real Estate Holding Pvt. Ltd. and Others and Image Developer and Another*<sup>17</sup>.

**Submissions on behalf of the respondent (plaintiff) :**

9. The submissions made on behalf of the plaintiff are summarised as under :

(a) The plaintiff is suing on a tort obligation and not only the formation of the contract. Defendant no.3 is the hub centre of defendants nos. 1, 2 and 4. Hence, it is a necessary party. Learned senior counsel for the plaintiff relied upon the decision of this court in the case of *Naraindas Muthuradas Narielwala (Firm) vs. Mukesh & Co.*<sup>18</sup>, and the decision of the Apex Court in the case of *Mumbai International Airport Pvt. Ltd vs. Regency Convention Centre and Hotels Pvt. Ltd. and Others*<sup>19</sup> and *Kasturi vs. Iyyamperumal and Others*<sup>20</sup>.

(b) Under the Co-operation Agreement, the lawful debt conversion was in ISU terms. Thus, defendant no. 4 had knowledge of the ISU and the obligations therein.

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17 2025 SCC Online Bom 3284

18 1988 Mh. L. J. 1133

19 (2010) 7 SCC 417

20 (2005) 6 SCC 733

In July 2021, defendant no. 4 acquired 97.97% of the equity capital of defendant no. 1, which, in turn, holds 100% of the capital of defendant no. 2, resulting in a 50.50% share in defendant no. 3. In view of the ongoing defaults, the lenders also filed a claim in a London court. Plaintiff had objected to the earlier rights issue.

(c) Despite various requisitions seeking documents pursuant to the rights issue, the documents were not fully provided, which would constitute a violation of the ISU clauses. Defendant no. 2 was under an obligation to ensure that the equity share capital of the lenders in defendant no. 3 was maintained at 16.16% and would not dilute the lenders' security, including the pledge and the economic interest held by the lenders in defendants nos. 1 to 3. Defendant no.2's non-subscription to the rights issue drastically reduced the shareholding of defendant no. 2 in defendant no. 3 from 50.50% to 13.65%, which has resulted in the effective economic interest of all lenders in defendant no. 3 being reduced from approximately 16.6% to merely 4.37%.

(d) Hence, the plaintiff on 1<sup>st</sup> July 2025 informed defendant nos. 1, 2 and 4, addressing the letter also to defendant no. 3 that there is a violation of the lender's rights under the ISU and SPA. On 2<sup>nd</sup> July 2025, defendant no. 2 informed the plaintiff, stating that defendant no. 2's board has decided that it is unable to subscribe for the shares. Defendant no.3 had come up with the rights issue, given that the funds are required for undertaking critical infrastructure work at the airport, which is part of a major development plan, and the amount of INR 3240 crores was sought to be raised under the rights issue, out of which INR 2783.44 crores was to repay defendant no. 4's unsecured existing debt. Thus, only the remaining INR 456.56 crores raised were to be used for the purposes of the major development plan. In such circumstances, a meeting of the consortium lenders was held on 3<sup>rd</sup> July 2025, wherein a representative of the Adani Group updated the lenders on the status of the rights issue in defendant no.3. It was informed that the proceeds from the rights issue have been received by defendant no. 3,

and the allotment-related formalities would be completed within 30 days. The representative of the Adani Group reiterated that if lenders are agreeable to provide INR 1636 crores to defendant no. 2 by 2<sup>nd</sup> August 2025, they would undertake to purchase the shares of defendant no. 3 from defendant no. 4. The time under the rights issue was to expire on 5<sup>th</sup> July 2025. Hence, the plaintiff was constrained to file the suit on 4<sup>th</sup> July 2025. The plaintiff took immediate steps for seeking urgent interim relief and on 9<sup>th</sup> July 2025 in view of the statement made on behalf of defendant nos. 2, 3 and 4, the plaintiff carried out amendment to the prayers to direct defendant no. 4 to not create any rights/encumbrances over the equity shares issued by defendant no.3. On 12<sup>th</sup> August 2025 the plaintiff applied for amendment as the rights issue was concluded and the shares were already pledged.

(e) Defendant no. 3 proposed the rights issue at face value, to ensure that defendant no. 4's shareholding increases, while defendant no. 2's decreases, thereby prejudicing the lenders. Defendant no. 4, which has

subscribed to the rights issue, while its step-down holding company, i.e., defendant no. 2, conveniently claims not to have funds to subscribe to the rights issue. However, defendant no. 2 has undertaken to buy shares from defendant no. 4. Therefore, but for these entities acting as a single economic entity, it would not be possible for the entire exercise to have been concluded in the manner it has been done.

(f) To support the submissions on the point that the pleadings clearly contemplated urgent interim relief, learned senior counsel for the plaintiff relied upon various pleadings in the plaint in paragraphs 8, 14, 16, 17 coupled with supporting documents annexed at Exhibit A, B, E, F and G. He thus submits that the plaint clearly contemplates urgent interim relief seeking waiver of the mandatory compliance under Section 12A.

(g) The plaint clearly discloses a cause of action against defendant no. 3. Inducing or precluding a breach of contract is a tort recognised by law, and thus a party who precludes or breaches incurs tortious

liability and is liable for subsidiary and injunctive relief for such inducement. Hence, a clear cause of action is disclosed against defendant no.3. Specific and material reliefs have been sought in the plaint against defendant no. 3, and thus defendant no. 3 is not merely a formal party, but a necessary party for the complete and effective adjudication of the dispute. The relief claimed is not confined to breach of contract but also encompasses the tort of inducement and the procurement of breach of contractual obligations. Hence, merely because defendant no. 3 is not a party to the ISU or the SPA; it cannot be said that there is no cause of action against defendant no.3.

(h) The rejection of the plaint on the ground of no cause of action would amount to partial rejection of the plaint, which is not permissible. The amendments were necessary due to events that occurred after the suit was filed. It is a well-settled legal principle that the applicability of the pre-institution mediation requirement under 12A must be determined with reference to the circumstances prevailing, and the nature of relief

sought, at the time of institution of the suit. The present suit, as originally instituted, unequivocally sought urgent interim relief to avert imminent and irreparable harm, and therefore squarely falls within the statutory exception to mandatory pre-institution mediation.

(i) The test for determining whether urgent interim relief is warranted under Section 12A must be applied from the standpoint of the plaintiff, as disclosed in the plaint, and not based on the subjective assessment or subsequent characterisation by the defendants. At the stage of institution, the court is not required to conduct a detailed inquiry into the merits of the plaintiff's claim or the veracity of its apprehensions; rather, it must assess whether, on the basis of the facts pleaded, the plaintiff has made out a credible case of imminent or irreparable harm warranting urgent interim relief.

(j) At the time of filing the suit on 4<sup>th</sup> July 2025, the plaintiff faced an imminent and irreversible threat to its security interest. The rights issue initiated by defendant no. 3 was scheduled to conclude on 5<sup>th</sup> July 2025, leaving the plaintiff with virtually no time to seek

protection. Defendant no. 2's last-minute communication dated 30<sup>th</sup> June 2025, conveying its refusal to subscribe to the rights issue, further exacerbated the urgency and underscored the imminent risk of dilution of the plaintiff's security. Thus, the urgency pleaded by the plaintiff is neither artificial nor a product of "clever drafting." Despite the amendments, the cause of action continues to subsist against all the defendants, including defendant no.3. The proceeding pending in the court at Secunderabad relates to a different cause of action and thus cannot be a ground to construe that the cause of action does not prevail against defendant no. 3 in the present suit.

(k) The doctrine of relation back in the context of amendments to a plaint, is neither an absolute rule of law nor one of universal application. When an amendment is necessary due to subsequent events, it cannot relate back to the date of filing the suit. Since the issue was left open, this court can examine the doctrine of relation back. Even otherwise, the urgency continues even after the amendment, and thus it would

not affect the plaintiff's contention for waiver from compliance with the mandatory provision of Section 12A on the ground that the suit contemplates urgent interim relief. Inclusion of a claim for damages in the amended suit does not in any manner diminish the urgency as contemplated under the standpoint of the plaintiff. The cause of action and the urgent need to protect the plaintiff's existing security and restoration of the economic interest are in aid of the primary relief claimed by the plaintiff. Hence, the plaint cannot be rejected at the threshold, as the substantial pleadings, supported by the documents, would warrant a trial in the present case.

**Points For Consideration:**

9. Whether the plaint in the present suit can be rejected at the threshold on the grounds that (i) the suit is barred by law for non-compliance with Section 12A of the said Act, (ii) there is an implied bar on the ground that there is no privity of contract with defendant no. 3 and (ii) there is no cause of action against defendant no. 3.

**Analysis and Conclusions:**

10. While deciding the application under Order VII Rule 11 of the CPC, it is first necessary to refer to the legal principles for applying the provisions of Order VII Rule 11 of the CPC for rejection of the plaint at the threshold. It is necessary to note that the legislature has found it fit to amend some of the provisions of CPC for its application to the commercial division and commercial courts. In the amendments made applicable to the commercial division and commercial courts, the provisions of Order VII Rule 11 of the CPC are not amended; thus, the well-settled legal principles for rejection of the plaint under Order VII Rule 11 of the CPC would also apply to the suits filed in the commercial courts and commercial division. The legal principles governing the rejection of a plaint under Order VII Rule 11 of the CPC are no longer res integra. The Hon'ble Apex Court in *Dahiben v. Arvindhbai Kalyanji Bhanusai*<sup>21</sup>, held that the power conferred on the court to terminate a civil action is a drastic one and thus the conditions enumerated under Order VII Rule 11 of the CPC must be strictly adhered to.

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21 (2020) 7 SCC 366

11. While discussing the legal principles settled in the decision of *Patil Automation*, the Hon'ble Apex Court, in the decision of *Yamini Manohar*, held that the words "contemplate urgent interim relief" suggest that the suit must contemplate, which means the plaint documents and facts should show and indicate the need for urgent interim relief. The Hon'ble Apex Court further held that if any urgent interim relief is contemplated, the commercial courts have to carry out a limited exercise in the facts and circumstances of the case to ascertain whether the prayer for interim relief is not made in a disguise only to wriggle out of the mandatory compliance under Section 12A of the said Act. It is thus held that the facts and circumstances have to be considered holistically from the standpoint of the plaintiff.

12. The legal principles settled by the Hon'ble Apex Court in the case of *Patil Automation* and *Yamini Manohar* are further explained in the decision of *Dhanbad Fuels*. The Hon'ble Apex Court held that the courts must also be wary of the fact that the urgent interim relief must not be merely an unfounded excuse by the plaintiff to bypass the mandatory requirement of Section 12A of the said Act. If the urgent

interim relief ultimately comes to be denied, the suit of the plaintiff may be proceeded with without compliance with Section 12A, if the test for urgent interim relief is satisfied, notwithstanding the actual outcome on merits. Thus, the legal principles are now well-established that the test for “urgent interim relief” is to see whether, on the examination of the nature of and the subject matter of the suit and the cause of action, the plaintiff's prayer for urgent interim relief could be said to be contemplable when the matter is seen from the standpoint of the plaintiff. Therefore, if the test for urgent interim relief is satisfied notwithstanding the actual outcome on merits, the suit can be proceeded with without compliance with Section 12A.

13. In *Novenco Building and Industry*, the Apex Court held that a plaintiff can be exempted from the requirement of Section 12A only when the plaint and the documents attached to it clearly show a real need for urgent interim intervention and on a wholesome reading of the plaint and the material annexed to the plaint ought to disclose the need for urgent relief. It is held that the court must look at the plaint, pleadings and supporting documents to decide

whether urgent interim relief is genuinely contemplated, and the court may also look for immediacy of the peril, irreparable harm, risk of losing rights/assets, statutory timelines, perishable subject-matter, or where delay would render eventual relief ineffective.

14. In the decision of this court in *M/s. Kamla Landmarc Real Estate*, the relevant observations regarding the material and statement in the plaint and pre-filing and post-filing conduct of the plaintiff is concerned, is with reference to the facts of the said case, and the test applied is for considering whether the urgent interim relief is contemplated from the standpoint of the plaintiff in the said case. As held by the Hon'ble Apex Court in the decisions of *Yamini Manohar* and *Dhanbad Fuels Private Limited*, the facts and circumstances should be considered holistically from the standpoint of the plaintiff.

15. In view of the well-established legal principles as discussed above, it is clear that there cannot be a straitjacket formula while examining the justification for non-compliance with Section 12A. Thus, after a meaningful reading of the plaint as a whole, each suit has to be examined in the facts

and circumstances of that case for ascertaining whether non-compliance with Section 12A is justified on the ground that urgent interim relief is contemplated from the plaintiff's point of view.

16. In *The Correspondence, RBANMS Educational Institution*, the Hon'ble Apex Court was dealing with a prayer for rejection of the plaint, on the ground that the respondents were only agreement holders and not owners of the suit property and that mere execution of an agreement to sell does not create or confer any right or interest in the property in favour of the proposed purchasers. The Apex Court relied upon the legal principles settled in *Dahiben* and held that Order VII Rule 11 of the CPC serves as a crucial filter in civil litigation, enabling courts to terminate proceedings at the threshold where the plaintiff's case, even if accepted in its entirety, fails to disclose any cause of action or is barred by law, either express or by implication. It is held that there is a bounden duty on the Court to discern and identify a fictitious suit, which on the face of it would be barred, but for the clever pleadings disclosing a cause of action, that is surreal and when clever drafting veils the implied bar to disclose the

cause of action; it then becomes the duty of the Court to lift the veil and expose the bar to reject the suit at the threshold. It is further held that merely including a paragraph on cause of action is not sufficient, but rather, on a meaningful reading of the plaint and the documents, it must disclose a cause of action and the plaint should contain such cause of action that discloses all the necessary facts required in law to sustain the suit and not mere statements of fact which fail to disclose a legal right of the plaintiff to sue and breach or violation by the defendant.

17. In the present case, the suit was initially filed for an injunction restraining defendant no. 3 from conducting and proceeding with the rights issue and directing defendant no. 3 to maintain a separate account, if any money is paid by defendant no. 4 pursuant to the rights issue. The plaintiff had also prayed for a decree restraining defendant no. 2 from acting in any manner detrimental to the obligations undertaken under the ISU and the SPA. The suit was filed on 4<sup>th</sup> July 2025, along with a separate application seeking urgent injunctive interim relief on the rights issue. The plaintiff pleaded that the rights issue seeks to nullify the contractual

safeguards and defendant no. 3's letter dated 17<sup>th</sup> June 2025 constitutes a breach of the ISU and seeks to give a complete go-by to the lenders' rights and economic interests. The plaintiff alleged that the act of defendant no. 2 of not subscribing to the rights issue and not informing the plaintiff in advance about the defendant no. 3's letter to subscribe to the rights issue was a fraudulent and collusive act of the defendants.

18. As the rights issue was concluded after the suit was filed, the plaintiff applied to amend the plaint. The application for amendment was allowed by keeping the objections on merits open, including the objection under Section 12A and the question of whether the amendment would relate back to the date of filing of the suit. Hence, it is argued on behalf of the defendants that the amended plaint must be read as on the date of the original filing to examine whether the suit would be barred for non-compliance with the mandatory provision of Section 12A. It is submitted that in view of the deletion of the prayers and pleadings regarding the rights issue, no urgent interim is contemplated, and the amended suit is now only for seeking prayers to protect the plaintiff's

economic interest and for additional security and in the alternative for damages. Hence, according to the defendants, the amended plaint does not contemplate any urgent interim relief to seek a waiver from complying with the mandatory provision of Section 12A. In this context, reliance is placed on the doctrine of relation back to contend that the amended plaint would relate back to the date of filing of the suit.

19. In *Mumbai International Airport (P) Ltd.*, and *Kasturi*, relied upon by the learned senior counsel for the plaintiff, the Apex Court dealt with the issue of joining a party as a necessary or a proper party. In *Asian Hotels (North) Ltd.*, relied upon by the learned senior counsel for defendant nos. 1 and 2, the Apex Court was dealing with the powers under Order VI Rule 17 of the CPC and the principle of dominus litus. The legal principles settled in these decisions are not relevant to deciding the issue of rejection of the plaint under Order VII, Rule 11(a) or (d), of the CPC.

20. In *Priti Pal Singh*, the Apex Court considered whether the amendment to the plaint would relate back to the date of institution of the suit or be effective from the date of the

order. It was held that the order permitting amendment showed that the application for amendment was allowed without any rider/condition. Therefore, it was reasonable to presume that the Court was of the view that the amendment in the plaint would relate back to the date of filing the suit.

21. In *Naraindas Mathuradas Narielwala*, this court held that subsequent events brought on record by an amendment do not relate back to the date of the suit. It is held that the basic concern is to do justice, and not to impede the same. In the facts of the present case, the issue whether the amendment would relate back to the date of filing of the suit need not be decided at this stage, as it would not be relevant for examining whether the suit contemplates urgent interim relief for not complying with the mandatory provision under Section 12A. Both the unamended and amended plaints contemplate urgent interim relief from the plaintiff's standpoint, as the plaintiff seeks to protect the lenders' economic interests. Hence, the issue of whether the amendment would relate back to the date of filing of the suit or not would be considered at an appropriate stage of the suit.

22. In the present case, the pleadings and supporting documents reveal that the plaintiff faced an imminent and irreversible threat to its security interest, given the rights issue initiated by defendant no. 3. According to the plaintiff, defendant no. 2's last-minute communication, conveying its refusal to subscribe to the rights issue, further aggravated the plaintiff's apprehensions regarding dilution of the plaintiff's security. The pleadings in the plaint, the supporting documents, the facts and circumstances explained in the plaint, and the prayers made in the plaint for interim relief, supported by a separate interim application seeking urgent interim relief, clearly make out the case, when viewed from the standpoint of the plaintiff, that the suit contemplates urgent interim relief. Amending the plaint to bring on record subsequent events cannot be a ground for holding that, on the date of filing the suit, no urgent interim relief was contemplated. Hence, in the present case, non-compliance with the provisions of Section 12A is justified. Therefore, the plaint cannot be rejected at the threshold on the ground of non-compliance with Section 12A of the said Act.

23. When a prayer is made for rejection of the plaint on the

ground that it does not disclose the cause of action, it is the duty of the court to read the plaint in a meaningful manner. There is a difference between non-disclosure of cause of action, which comes within the scope of Order VII Rule 11 and a defective cause of action, which has to be decided during the trial. Therefore, it is the bounden duty of the Court to ascertain the material mentioned in the plaint along with the other documents and, on a meaningful reading of it, to arrive at a conclusion whether it discloses a cause of action.

24. In the present case, the suit seeks relief against all the defendants regarding any action that is detrimental to the obligations undertaken under the ISU and the SPA, and for additional security to restore the effective economic interest of the lenders in defendant no. 3. In the alternative the plaintiff has prayed for damages for the loss suffered by the lenders due to loss of security and default under the facility agreements and the ISU. The plaintiff has pleaded that defendant no.3 is the hub centre of defendants nos. 1, 2 and 4. According to the plaintiff, the pledge created by defendant no. 1 in favour of the lender is for 32% of the equity share capital of defendant no. 2, which is equivalent to a 16.16%

effective economic interest in the share capital of defendant no. 3. It is further pleaded that defendant no. 4 acquired 97.97% of the equity capital of defendant no. 1, which, in turn, holds 100% of the capital of defendant no. 2, resulting in a 50.50% share in defendant no. 3. Hence, defendant no. 2 was under an obligation to ensure that the equity share capital of the lenders in defendant no. 3 was maintained at 16.16%. The plaintiff has alleged that despite various requisitions seeking documents pursuant to the rights issue, the documents were not completely provided by the defendant. 3, which would amount to a violation of the clauses under the ISU. The plaintiff has pleaded that the manner in which the defendants completed the rights issue was deliberately undertaken to reduce the shareholding of defendant no. 2 in defendant no. 3 from 50.50% to 13.65%, which has resulted in the effective economic interest of all lenders in defendant no. 3 being reduced from approximately 16.6% to merely 4.37%.

25. The plaintiff has pleaded that a meeting of the consortium lenders was held on 3<sup>rd</sup> July 2025, wherein a representative of the Adani Group updated the lenders on

the status of the rights issue in defendant no.3. It was informed that the proceeds from the rights issue have been received by defendant no. 3, and the allotment-related formalities would be completed within 30 days. The representative of the Adani Group reiterated that if lenders are agreeable to provide INR 1636 crores to defendant no. 2 by 2<sup>nd</sup> August 2025, they would undertake to purchase the shares of defendant no. 3 from defendant no. 4. Hence, the plaintiff was constrained to file the suit to protect the economic interest of the lenders. The plaintiff further pleaded that defendant no. 3 proposed the rights issue at face value, to ensure that defendant no. 4's shareholding increases while defendant no. 2's decreases, thereby prejudicing the lenders. It is thus alleged that but for the defendants acting as a single economic entity, it would not have been possible for the entire exercise to have been concluded in the manner it has been done. It is thus submitted on behalf of the plaintiff that inducing or precluding a breach of contract is a tort recognised by law, and thus a party who precludes or breaches incurs tortious liability and is liable for subsidiary and injunctive relief for such inducement. Thus, the reading

of the plaint as a whole reveals that a clear cause of action is disclosed against defendant no.3, and specific and material reliefs have been sought in the plaint against defendant no. 3.

26. In *M.C. Chacko*, the Apex Court held that a person not a party to a contract cannot, subject to certain well-recognised exceptions, enforce the terms of the contract. This view is affirmed in *Cox & Kings Ltd.* It is held that the doctrine of privity means that a contract cannot confer rights or impose liabilities on any person except the parties to the contract and this doctrine has two aspects: first, only the parties to the contract are entitled under it or bound by it; and second, the parties to the contract cannot impose a liability on a third party. These decisions are relied upon by the learned senior counsel for defendant no. 3 to support his submissions that there is an implied bar as there is no privity of contract with defendant no. 3. However, in the facts of the present case, these legal principles would not apply for rejecting the plaint at the threshold on the ground of implied bar. In view of the allegations against all the defendants, the reliefs to protect the economic interests of the lenders, and

the prayer for damages, the issue of privity of contract and an implied bar, if any, in the present case will have to be dealt with in a full-fledged trial.

27. The reliefs claimed in the present suit are not confined to breach of contract but also encompass the tort of inducement and the procurement of breach of contractual obligations. The plaintiff has also claimed damages against all the defendants, including defendant no. 3 and pleaded a specific and clear cause of action against defendant no. 3. Thus, learned senior counsel for the plaintiff is right in submitting that merely because defendant no. 3 is not a party to the ISU or the SPA; it cannot be said that there is no cause of action against defendant no.3 or that there is an implied bar to reject the plaint at the threshold.

28. There is a distinction between a lack of cause of action and a defective cause of action. While dealing with the objection raised by defendant no. 3 that the plaint deserves to be rejected at the threshold on the ground that there is no cause of action against defendant no.3, this court is not required to examine the merits of the cause of action. According to the plaintiff, there is a right to sue defendant no.

3 because there is an invasion of its rights and a threat to the lenders' economic interests. Thus, in view of the facts and circumstances pleaded in the present case, keeping in view the relief sought, the cause of action is also disclosed against defendant no. 3 to seek the reliefs as claimed to secure the economic interest of the lenders.

29. Learned senior counsel for defendant no. 3 relied upon the decision in *Church of Christ* and the learned Division Bench of this court in *Sheela Ram Vidhani* to support his contention that rejection of a plaint in its entirety qua a particular defendant is permissible when the pleadings disclose no cause of action against such defendant. He distinguished the concept of a “partial rejection” of the plaint by dissecting its pleadings, which is not permissible as held by the Apex Court in *D. Ramachandran* and *Roop Lal Sathi* and the concept of rejection of the plaint as a whole only against a particular defendant. He also relied upon the learned Single Judge’s decision of this Court in *Chetana Shankar Manapure*, holding that the rejection of the plaint as a whole against one of the parties is permissible and is to be differentiated from a plaint being split or only a part of it being

rejected, which is considered impermissible in law.

30. Learned senior counsel for defendant no. 3 pointed out the decision of the learned Single Judge of this Court in *Kaycee Corporation*, holding that a plaint cannot be rejected against one of the defendants entirely. He, however, submitted that this decision is not a good law as it fails to follow the binding judgment of the learned Division Bench of this Court in *Sheela Ram Vidhani*. The Division Bench considered the Apex Court's judgments in *Sejal Glass Ltd.* and *Church of Christ* and the finding of the learned Single Judge in *Chetana Shankar Manapure*, and held that the law in the earlier decision of the Apex Court in *Church of Christ* must be followed, which held that the plaint as a whole can be rejected against some of the defendants.

31. However, in *Kaycee Corpn*, the learned Single Judge of this Court held that in the case of *Sheela Ram Vidhani*, the attention of the Division Bench of this Court does not seem to have been drawn to a Three-Judge Bench judgment of the Hon'ble Apex Court in *D. Ramchandran*, which preceded the decision in the case of *Church of Christ*. In *D. Ramchandran*, the Three-Judge Bench referred to *Roop Lal*

*Sathi* and held that there cannot be a partial rejection of the plaint. In *Roop Lal Sathi*, a Two-Judge Bench of the Hon'ble Apex Court held that where the plaint discloses no cause of action, it is obligatory upon the Court to reject the plaint as a whole under Order VII Rule 11(a) of the CPC, but the rule does not justify the rejection of any particular portion of a plaint. The decision in *Church of Christ* refers to *Roop Lal Sathi* but does not refer to *D. Ramchandran*.

32. Two-Judge Bench of the Apex Court in *Sejal Glass Ltd.* held that the relief of rejection of the plaint in exercise of powers under Order VII Rule 11(d) of the CPC cannot be pursued only in respect of one of the defendants. It is held by the Apex Court that the plaint has to be rejected as a whole or not at all, in exercise of power under Order VII Rule 11(d) of the CPC. Neither of these decisions refers to *D. Ramchandran* and *Roop Lal Sathi*.

33. All these aforesaid judgments were referred to in support of the contention that the plaint in the present suit deserves to be rejected as a whole against defendant no. 3 on the ground that it does not disclose any cause of action. However, I have recorded my reasons to hold that the plaint

does disclose a cause of action against defendant no. 3. Hence, in the present case, it is not necessary to decide the controversy whether the plaint as a whole can be rejected or cannot be rejected at the threshold under Order VII Rule 11 of the CPC only against defendant no. 3.

34. Therefore, the plaint can neither be rejected under clause (d) of Rule 11 of Order VII of the CPC on the ground that there is non-compliance with the mandatory provision of Section 12A, nor on the ground of any implied bar, nor can it be rejected under clause (a) of Rule 11 of Order VII of the CPC on the ground that no cause of action is disclosed against defendant no. 3.

35. Hence, the Interim Application No. 6465 of 2025 is rejected.

**[GAURI GODSE, J.]**