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

% **Date of Decision: 28th April, 2025**
+ CM(M) 624/2025, CM APPL. 19781/2025 & CM APPL. 19782/2025

RISHI KUMAR GOEL & ANR.Petitioner

Through: Mr. Shiv Charan Singh Garg with Mr.
Imran Khan and Mr. Nikhil Gupta,
Advocates.

versus

MAMTA RANIRespondent

Through: Mr. Hemant Kumar Chaturvedi,
Advocate.

+ CM(M) 627/2025, CM APPL. 19836/2025 & CM APPL. 19837/2025

RISHI KUMAR GOEL & ANR.Petitioner

Through: Mr. Shiv Charan Singh Garg with Mr.
Imran Khan and Mr. Nikhil Gupta,
Advocates.

versus

AMIT GUPTA & ORS.Respondent

Through: Mr. Hemant Kumar Chaturvedi,
Advocate.

+ CM(M) 606/2025 & CM APPL. 19153/2025

RISHI KUMAR GOEL & ANR.Petitioner

Through: Mr. Shiv Charan Singh Garg with Mr.
Imran Khan and Mr. Nikhil Gupta,
Advocates.

versus

SMT URMILA GUPTARespondent

Through: Mr. Hemant Kumar Chaturvedi,
Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. With the consent of learned counsel for parties, all the three petitions



have been taken up together. Moreover, the issue raised in all the three petitions is identical in nature and all the abovesaid three suits are being defended by common defendant i.e. Mr. Rishi Kumar Goel.

2. There are three separate commercial suits which have been filed against the petitioners herein.

3. All such cases are at the stage of defendant's evidence.

4. During the pendency of the suits, separate applications were moved under Order VII Rule 10 read with Order VII Rule 11 CPC praying therein that the suits be dismissed as these was not involving any commercial dispute.

5. The grievance in the present petition is with respect to dismissal of such application(s).

6. During course of the arguments, Mr. Shiv Charan Singh Garg, learned counsel for the petitioner/defendant, submits that if one opportunity is granted to him to raise the same contention at the stage of final argument as well, he would not press the present petitions. He submits that the fact whether the dispute is commercial in nature or not goes to the root of the matter. Learned counsel for petitioner contends that suits in question do not involve any commercial dispute and, in this regard, he relies upon the *Ambalal Sarabhai Enterprises Ltd vs. K S Infraspace LLP and Anr* : (2020) 15 SCC 585, *Glasswood Realty Private Ltd and Ors versus Chandravilas Kailashkumar Kothari*: 2021 SCC OnLine Bom 5032 and *Lady Moon Towers Private Ltd vs. Mahendra Investment Advisors Private Ltd*: 2021 SCC OnLine Cal 4240.

7. Learned counsel for the respondent/plaintiff, has joined the proceeding through *video conferencing* and, according to him, the dispute in question is, clearly, commercial in nature and falls within Section 2(1)(c)(i) of Commercial Courts Act, 2015. He, whereas, strongly relies upon *Annapurna*



B. Uppin & Ors. Vs. Malsiddappa & Anr :(2024) 8 SCC 700.

8. Be that as it may, even Mr. Chaturvedi has no objection if the abovesaid aspect is considered again by the learned Trial Court at the final stage of the matter.

9. Fact also remains that disposal of any such application moved under Order VII Rule 11 CPC is, generally, based on the averments made in the plaint and there is no comprehensive evaluation, from all angles. The issue, whether the dispute is commercial in nature or not, is an important aspect and touches the very competence and jurisdiction of a Commercial Court.

10. The present petitions are accordingly disposed of with the liberty to defendant to raise the abovesaid contention at the stage of final arguments. Learned Trial Court shall consider the same, without being influenced by any of the observation appearing in today's order or, for that matter, in impugned order dated 24.02.2025.

11. It is, however, clarified that this Court has not made any observation, either way qua said contention.

12. Mr. Garg, learned Counsel for the petitioner/defendant, submits that when the suits were, subsequently, taken up by the learned Trial Court on 07.04.2025, it granted last and final opportunity to them to lead evidence and they are, thus, under obligation to file affidavit(s) of its witnesses within two weeks with advance copy to the opposite sides. He submits that such period has already expired and that there was never any intention to delay the proceedings and delay has solely occasioned because of the fact that the petitioners were exploring other legal remedies available to them.

13. During course of the arguments, it is submitted that affidavits of the proposed witnesses would be filed within two days from today before the



learned Trial Court with advance copy to Mr. Chaturvedi, learned Counsel for respondent.

14. After hearing both the sides, such time of two days is also granted to defendant in said matters. Liberty is also granted to defendant to move appropriate application(s) before the learned Trial Court seeking waiver of the cost as was imposed upon them on 07.04.2025 and in case, any such application is moved, the learned Trial Court shall consider the same in accordance with law.

15. The present petitions stand disposed of in aforesaid terms.

16. Pending applications, if any, stand disposed of.

(MANOJ JAIN)
JUDGE

APRIL 28, 2025/sw/SS