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

Date of decision: 02.09.2026

CNR No. DLHC010358162025

+ **TR.P.(C.) 98/2025**

MANOJ KAKKAR

.....Petitioner

Through: **Mr. Mayank Garg, Advocate.**

versus

M/S KIAASA RETAIL PVT LTD AND ANR.Respondents

Through: **Mr. Nishant Mittal, Advocate.**

CORAM:

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

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JUDGEMENT (Oral)

1. The present Petition has been filed under Section 24 of the **Code of Civil Procedure, 1908¹**, seeking transfer of the **Civil Suit being CIV.DJ 530/2020²** titled as “*Manoj Kakkar v. M/s. Kiaasa Retail and Anr.*” pending before the **learned District Judge-02, West District, Tis Hazari Courts, Delhi³** to the concerned Court of the **learned District Judge (Commercial Court), West District, Tis Hazari Courts, Delhi⁴**.

2. Learned counsel appearing on behalf of the parties submit that the Civil Suit is presently pending before the learned Trial Court and is at the stage of Plaintiff's evidence.

¹ CPC

² Civil Suit

³ learned Trial Court

⁴ learned Transferee Court



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3. Learned counsel appearing on behalf of the Respondents objects to the present transfer on the ground that the provisions of Section 24 of the CPC would not apply to Commercial Suits.
4. He furthermore submits that the **Commercial Courts Act, 2015**⁵ prescribes specific requirements for institution and conduct of a commercial suit, including filing of the plaint in the prescribed manner and furnishing of a Statement of Truth, and since the aforesaid requirements have not been complied with in the present case, it is submitted that the provisions of Section 24 of the CPC cannot be permitted to override the provisions of the CC Act.
5. **Per contra**, learned counsel appearing on behalf of the Petitioner, on the other hand, relies upon the Judgments of this Court in ***Sherawali Developers LLP v. M/s Majesty Homes & Ors.***⁶ and ***Namita Gupta v. Suraj Holdings Ltd.***⁷ and submits that the objection raised by the Respondents is no longer *res integra* and open for consideration.
6. This Court has heard learned counsel appearing on behalf of the parties and, with their able assistance, has perused the material on record and considered the Judgments handed over across the Bar.
7. It is noted that the aforesaid objections raised by the learned counsel for the Respondents have already been considered and discussed in detail by this Court in ***Namita Gupta*** (supra) and in ***Sherawali Developers LLP*** (supra).
8. In ***Namita Gupta*** (supra), this Court held that Section 24 of the CPC continues to operate in respect of suits relating to commercial

⁵ CC Act

⁶ 2024 SCC OnLine Del 3963

⁷ 2024 SCC OnLine Del 143



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disputes of specified value and that the requirements prescribed under the CC Act do not, by themselves, take away the jurisdiction of this Court to transfer such proceedings. The relevant observations in the said judgment are extracted hereinbelow:

“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.

65. As held hereinabove, a Commercial Court, constituted under Section 3 of the Act, would be a Court subordinate to the High Court. Reference in this regard may also be made to the judgment of the Supreme Court in *Life Insurance Corporation of India v. Nandini J. Shah*, (2018) 15 SCC 356. Therefore, there is no reason to exclude the applicability of Section 24 of the CPC to a Suit in relation to a Commercial dispute of a specified value. The first issue is answered accordingly.”

9. The similar issue was thereafter considered by this Court in ***Sherawali Developers LLP*** (supra), wherein it was also held that the procedural requirements under the CC Act, including those relating to the plaint and Statement of Truth, can be duly complied with upon transfer of the proceedings to the competent Commercial Court. The



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relevant observations in the said judgment are extracted hereinbelow:

“13. Mr. Agarwal, learned counsel for the respondent has raised two other issues. The first is that a plaint which is required to be filed as a commercial suit has to follow a particular protocol, which is distinct and different from that which is to be followed in non-commercial suits.

14. Mr. Goyal, learned counsel for the petitioner, submits that the petitioner would re-institute a plaint before the Transferee Court in accordance with the provisions of the Commercial Courts Act, including the requirement of filing a statement of truth and other such formalities. This, he points out, was also allowed by the Co-ordinate Bench in Namita Gupta.

15. In the present proceedings, out of the four defendants, three have already filed written statements and replications in response thereto have also been filed by the petitioner. As such, the suit is at a fairly advance stage of pleadings. It would do no good to anyone to return the suit at this stage.

16. The petitioners are, however, directed to ensure that the plaint is represented in accordance with the protocol envisaged by the Commercial Courts Act.

17. Mr. Agarwal raises, as a second contention, the argument that the suit was liable to be dismissed as having been instituted without compliance with the requirement of pre-institution mediation under Section 12-A of the Commercial Courts Act.

18. It shall remain open to the respondent to raise this issue before the Transferee Court. If the said issue is raised, the Transferee Court would deal with the issue and take a decision thereon in accordance with law and after giving an opportunity to learned counsel for the petitioner.

19. Subject, therefore, to the petitioner filing a proper plaint before the transferee court in accordance with the protocol envisaged with the Commercial Courts Act, this Court transfers Civil Suit No. 21/2020 (Sherawali Developers LLP v. Majesty Homes) from the Court of Ms. Ruchika Singla (ADJ-03, North-West District, Rohini Courts, Delhi) to the concerned Commercial Court, North-West District, Rohini Courts, Delhi.”

10. A perusal of the aforesaid Judgments would show that the objection raised by the Respondents, that the provisions of Section 24 of the CPC cannot be invoked in respect of a commercial dispute merely on account of non-compliance with the procedural requirements under the CC Act, is no longer tenable. The absence of a Statement of Truth or other prescribed requirements at the stage of



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institution would not denude this Court of its power under Section 24 of the CPC, and the requisite compliance can be undertaken before the learned Transferee Court.

11. In view of the aforesaid, the present Petition is allowed and accordingly the Civil Suit being CIV.DJ 530/2020, titled *Manoj Kakkar v. M/s. Kiaasa Retail & Anr.*, pending before the learned Trial Court is directed to be transferred to the Court of the learned Transferee Court, at the stage at which it presently stands. Any requisite compliance under the CC Act, including the filing of the Statement of Truth and other prescribed requirements as directed by Paragraphs 16 and 19 of the Judgment in *Sherawati Developers LLP* (supra), may be carried out in accordance with law.

12. Needless to state that any objections available with the Respondent, *inter alia*, the objection relating to Section 12A of the CC Act or non-compliance with the requisite protocol under the CC Act may be taken in accordance with law before the Transferee Court.

13. The learned Trial Court is requested to transmit the case records to the learned Transferee Court within a period of four (04) weeks from the date of this Order, whereafter the matter be listed before the learned Transferee Court accordingly.

14. The present Petition stands disposed of in the aforesaid terms.

15. Pending application(s), if any, also stand disposed of.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 02, 2026/nd/jk