



2026:DHC:2492-DB



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

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*Judgment reserved on: 11.02.2026*  
*Judgment pronounced on: 25.03.2026*  
*Judgment uploaded on: 25.03.2026*

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RFA(COMM) 56/2024

MR PURAN JOSHI (Proprietor of S J Cargo Movers)

.....Appellant

Through: Mr. Utkarsh Joshi and Mrs.  
Anjali Menon, Advs.

versus

DECCAN EDIBLES PRIVATE LIMITED .....Respondent

Through: Ms. Nistha Gupta and Ms.  
Sakshi Mehley, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**J U D G M E N T**

**ANIL KSHETARPAL, J.:**

**INTRODUCTION:**

1. The present Appeal, preferred under Section 13 of the Commercial Courts Act, 2015, challenges the judgment and order dated 09.12.2023 [hereinafter "Impugned Judgment"] passed by the Commercial Court, whereby the Commercial Court rejected the Appellant's suit for recovery under Order VII Rule 11(a) of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC'].

**FACTUAL BACKGROUND:**

2. In order to comprehend the issues involved in the present case, the relevant facts in brief are required to be noticed.



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3. The Appellant carries on business under the name and style of 'M/s S J Cargo Movers' as its sole proprietor. The firm is a specialized logistics provider primarily engaged in inland road transportation. The case of the Appellant, as set out in the Plaint, is that the Respondent, a company specializing in the international export of agricultural perishables, approached the Appellant in the year 2018 for a specific commercial assignment. This assignment required the Appellant to manage the logistics of transporting grapes from various cold storage facilities and agricultural hubs within India to designated custom stations and ports for onward export to the Russian Federation.

4. The Appellant asserts that the nature of the goods required specialized refrigerated transport and a high degree of logistical coordination. Between 11.03.2020 and 09.05.2020, notwithstanding the immense logistical constraints imposed by the nationwide COVID-19 lockdown, the Appellant executed approximately 30 different consignments. For these services, the Appellant raised 30 specific invoices, totalling a principal amount of Rs.9,13,087/-. It is the Appellant's categorical stand that these invoices were raised directly against the Respondent and that the Respondent accepted the services, and the accompanying invoices without any contemporaneous objection regarding the quality of service or the billed amounts.

5. Crucially, the Appellant has pleaded a consistent "course of dealing" to establish a direct contractual nexus. The Plaint explicitly states that the Respondent had a history of making direct payments



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into the bank account of 'M/s S J Cargo Movers' for prior services. Following the non-payment of the 2020 invoices, the Appellant issued several reminders. In response to a final demand, the Respondent sent an email dated 28.07.2021. While the Respondent disputed the outstanding figures in this email, the Appellant contends that the communication serves as an admission of an active business relationship. After the pre-institution mediation resulted in a Non-Starter Report on 19.09.2022, the Appellant filed the suit seeking recovery of the principal sum along with 24% interest per annum, bringing the total claim to Rs. 15,78,580/.

6. On 07.11.2023, the Commercial Court, on its own motion and prior to the issuance of notice, identified thirteen "anomalies" in the Plaint. These included technical observations regarding the Statement of Truth, territorial jurisdiction, and the lack of a registration certificate under the Carriage by Road Act, 2007. However, the pivot of the rejection was the Commercial Court's observation that the export documentation (such as Mate's Receipts and ocean freight bills) featured a sister concern of the Appellant, M/s SPJ Cargo Private Limited. The Commercial Court surmised that since the "export cycle" involved the sister concern, the Appellant had no independent standing or "privity of contract" with the Respondent. The Appellant filed an application for permission to amend the plaint. However, the Commercial Court dismissed the said application for amendment and rejected the Plaint on 09.12.2023 holding that no cause of action was disclosed against the Respondent. The observation of the Commercial Court is extracted as under:



“16. This suit appears to be an endeavour on the part of plaintiff to split the cause of action accrued in favour of a third party i.e. M/s SPJ Cargo Private Ltd. by claiming it to be a sister concern so as to apparently harass the Mumbai-based defendant Company by filing multiple suits in Delhi.”

7. Therefore, the Appellant has preferred the present Appeal to set aside the Impugned Judgement.

### **CONTENTIONS ON BEHALF OF THE APPELLANT:**

8. Learned counsel for the Appellant has assailed the Impugned Judgment primarily on the following grounds:

i. The Commercial Court has failed to take into consideration the following paragraphs from the original plaint that *prima facie* established a cause of action and provide that services were rendered to the Respondent and that the Respondent has failed to make the payments in a timely manner:

“6. It is submitted that the Director of the Defendant, Mr Nagesh Lakshman Shetty, had approached the Plaintiff for transportation of grapes to Russia. The Plaintiff on request and demand of the Defendant, provided the services of road transportation of the shipment to the Defendants, against the delivery of which the Plaintiff raised several invoices. All invoices were accepted by the Defendants without any dispute or demur.

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9. It is submitted that the plaintiff has a Sister entity being (**SPJ Cargo Private Limited**) which provide freight forwarding services the Defendant have availed services from the Sister entity also. The Defendant had also availed the services of the Plaintiff for transportation of the grapes from the pickup point to the port of Departure to the destination port in Russia, Therefore, all emails sent to the Defendant by the Plaintiff to follow up and/or requesting to clear the outstanding amount, was for both the entities, i.e., SJ Cargo Movers, and its Sister entity, SPJ Cargo Pvt Ltd.

10. It is submitted that since raising the invoices, the Plaintiff had been constantly following up with the Defendant for clearing its outstanding dues through phone and emails. The Defendant had made commitments to make monthly payments to the Plaintiff for clearing their dues but had been failing to meet such promises made by them every month. A copy of



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an email dated 16 March 2021 sent by the Plaintiff following up/reminding the Defendant No. 2 to make payment is annexed herewith and **Document 5**.

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11. The Plaintiff having received no payment from the defendant despite having followed up/ reminded for payment every 15 days for the past 2.5 years, had finally intimated the Defendant Company through an email dated 28 July 2021 that the Plaintiff would be claiming interest on its outstanding dues. A copy of all email correspondences between the parties pertaining payment of the outstanding amount is annexed herewith as **Document 6**.”

ii. Further, the annexed emails with the original plaint serve as an admission on the part of the Respondent that services have been rendered to him which the Commercial Court overlooked while rejecting the suit at the threshold.

iii. The Appellant has further clarified the roles of the Appellant and the Sister Concern and the services each provided to the Respondent, the Appellant’s Role was limited to transportation of the ‘grapes’ from the Warehouse to Port and from the Port the Sister Concern’s Roles began which included Customs clearance and cargo loading. The Commercial Court’s assumption that the contract was only with the sister concern is a factual error.

iv. The Appellant has further contended that the Commercial Court has erred in their reasoning regarding ‘privity of contract’, to hold that it did not exist in the present case. The Appellant has placed reliance on the judgement passed by this Court in *Utair Aviation v. Jagson Airlines Limited & Another*<sup>1</sup>, wherein it has been provided that privity can be created through express or implied conduct. The court has to determine whether the party is a complete stranger to the

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<sup>1</sup>2012:DHC:2470



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contract or the plea is being used to defeat legitimate claims. The Respondent in the present case had full knowledge and accepted the benefit of the services provided by the Appellant for transportation of 'grapes' from the warehouse to the port.

### **CONTENTIONS ON BEHALF OF THE RESPONDENT:**

9. *Per contra*, learned counsel for the Respondent argued that the Appellant has relied on paragraphs from the amended plaint (not allowed by the Commercial Court) to aver that the cause of action was not disclosed in the original plaint.

10. Learned counsel further argued that the documents that are relied on by the Appellant to establish that services were rendered to the Respondent by the Appellant are not relevant to the present case as raising invoices cannot bind bipartite financial liability and the e-mails have been addressed by the Sister Concern which is a separate legal entity and not a party to the proceedings.

11. Learned counsel for the Respondent has further submitted that privity of contract did not exist in the present case due to there being no tripartite arrangement or any agreement amongst the Respondent, Appellant and the Sister Concern.

12. Further it was contended by the learned counsel for Respondent, the plea for TDS deposit and deduction which the Appellant has made a part of this present appeal to indicate transactions between the Respondent and Appellant was never part of



the plaint and hence cannot be relied upon especially when dealing with an application for rejection of plaint.

13. Finally, learned counsel has also urged this Court to consider material suppression on part of the Appellant in the present Appeal.

### **ANALYSIS AND FINDINGS:**

14. The primary question before this Court is whether the Commercial Court exceeded its jurisdiction by rejecting the plaint *suo moto* on the ground of non-disclosure of cause of action by the Appellant in the original plaint.

15. The primary error in the Impugned Judgment lies in the Commercial Court's failure to adhere to the fundamental principles governing Order VII Rule 11 of the CPC. As established by the Supreme Court in *Dahiben v. Arvindbhai Kalyanji Bhanusali*<sup>2</sup>, the Court must restrict its scrutiny to the four corners of the Plaint and the documents filed therewith, which must be taken to be true in their entirety. A “cause of action” is a bundle of facts which, if proved, would entitle the plaintiff to relief. By pleading a direct solicitation of services, successful delivery of cargo, and the issuance of thirty direct invoices received without protest, the Appellant has undeniably met the threshold of disclosing a *prima facie* cause of action. The Court’s duty at this stage is limited to finding a “right to sue” on the face of the record, not to evaluate the probability of the plaintiff’s eventual success or the potential strength of a defence.

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<sup>2</sup>(2020) 10 SCC 367



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16. The Commercial Court's conclusion regarding the "lack of privity of contract" is a premature adjudication of a mixed question of fact and law. The Appellant categorically pleaded that the Respondent had a historical course of dealing, evidenced by prior direct payments into the bank account of 'M/s S J Cargo Movers'. Under the law of contract, as interpreted in *Utair Aviation (supra)*, privity is not confined to a single formal document but can be inferred from the "conduct of parties" and "implied contracts." If the Respondent accepted road transportation services from the Appellant and had historically paid for them directly, a contractual nexus is *prima facie* established. The Commercial Court could not have dismissed this nexus at the admission stage simply because a different entity (the Sister concern) managed the ocean freight portion of the export chain, as modern logistics frequently involves segmented contracts among affiliated entities.

17. This Court finds that the Commercial Court erroneously embarked upon a "mini-trial" by analysing the "export cycle" in a vacuum and comparing Mate's Receipts and ocean freight documents against the Appellant's invoices to conclude the Appellant was an interloper. This inference is fundamentally flawed; whether the Appellant acted as a principal or an agent is a matter of evidence that requires a trial. Furthermore, the observation that the Appellant was "splitting the cause of action" belonging to M/s SPJ Cargo Private Limited is equally untenable. Order II Rule 2 of the CPC is a defence intended to prevent a plaintiff from instituting a suit twice for the same cause of action; it is not a tool for the Court to decide that a different



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party should have sued instead. If the Respondent believed it owed money to the sister concern and not the Appellant, it was for the Respondent to raise such a plea in its Written Statement rather than for the Court to take on the mantle of the defence.

18. The thirteen “anomalies” cited by the Commercial Court are largely procedural or technical in nature and do not go to the root of the cause of action. As held in *Salem Advocate Bar Association v. Union of India*<sup>3</sup>, procedural laws are “handmaids of justice” and should not be used as tripwires to defeat substantive claims. Defects such as the lack of registration under the Carriage by Road Act, 2007, or errors in the Statement of Truth, are either curable by amendment or represent statutory defences that must be tested during trial. The summary rejection of a plaint for such defects, especially when the Appellant had moved an application under Order VI Rule 17 of the CPC to rectify them, constitutes a grave procedural irregularity that denies the Plaintiff a fair opportunity to present their case.

19. Finally, the Commercial Court’s reliance on the Respondent's email dated 28.07.2021 as a ground for rejection is a misapplication of the law. While the Respondent disputed the invoices in that email, the Appellant utilized this communication to demonstrate the existence of a business relationship and a response to a demand for payment. The Trial Court treated the Respondent's denial as gospel truth to negate the cause of action, despite the settled position that a “disputed question of fact” cannot be the basis for rejecting a plaint.

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<sup>3</sup>(2005) 6 SCC 344



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**CONCLUSION:**

20. In view of the above, the present Appeal is allowed. The Impugned order which constitutes a deemed decree dated 09.12.2023 is hereby set aside. The suit is restored to its original number.

21. The parties, through their respective counsel, are directed to appear before the Commercial Court on 07.04.2026.

22. The present Appeal stands disposed of.

**ANIL KSHETARPAL, J.**

**AMIT MAHAJAN, J.**

**MARCH 25, 2026**

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