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

Date of decision: 23rd APRIL, 2026

IN THE MATTER OF:

I.A. 22224/2023

IN

+ **CS(COMM) 385/2023 & I.A. 11013/2023, I.A. 19176/2023**

MR. SUJEET KUMAR GUPTA

.....Plaintiff

Through: Mr. Bharat Arora, Mr. Pradeep
Gahlot and Mr. Daood Ahmed,
Advocates.

versus

IDEAL PREPAID INDIA PVT. LTD. & ORS.

.....Defendants

Through: Mr. Sumant Nayak and Ms Smriti
Shukla, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

I.A. 22224/2023

1. The present application under Order VII Rule 11 (a) and (d) read with Section 151 of the Code of Civil Procedure, 1908 has been filed by the Defendant No.1 seeking rejection of the Plaint *inter alia* on the grounds that the instant Suit does not qualify as a 'commercial dispute' in terms of Section 2(1)(c) of the Commercial Courts Act, 2015 [**"CC Act"**].

2. The instant Suit has been filed for a decree of permanent injunction in favour of the Plaintiff and against the Defendants, restraining the Defendants and/or its affiliates, directors, shareholders, representatives and assigns, from directly or indirectly, defaming the Plaintiff by publishing false information



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and defamatory statement against the Plaintiff and maligning him and other reliefs including damages.

3. Facts of the case as borne out from the Plaint are stated as under:

- (i) The Plaintiff, a post-graduate in Masters of Computer Applications, is a software programmer with over twenty-five (25) years of experience in IT technology, the Founder as well as one of the Directors of the Defendant No. 1 Company, i.e., M/s Ideal Prepaid India Pvt. Ltd.
- (ii) The Defendant No. 1 Company, incorporated under the provisions of the Companies Act, 2013, having its registered office at B-94, Ground Floor, Ph-2, Aya Nagar Extension, Kh. No. 525/1, New Delhi – 110047, is a subsidiary of a South Africa-based company, M/s Holistic Technologies (Pty) Ltd., which has been impleaded as the Defendant No. 4 herein.
- (iii) The Defendants No. 2 and 3 herein are also Directors in the Defendant No.1 Company, however, stated to be residing out of India. As such, it is the claim of the Plaintiff that he was responsible for all the clients as well as reputation of the Defendant No. 1 Company in India.
- (iv) As per the Plaint, in the year 2004, the Plaintiff was working with M/s Oxigen Services Pvt. Ltd. [**“Oxigen”**], which was one of the Indian clients of the Defendant No. 4 Company. During this time, the Plaintiff was handling a software provided by the Defendant No. 4 Company to Oxigen, and in this regard, the Plaintiff also got in touch with one Mr. MordiKushnir, the Director of the Defendant No. 4 Company.



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- (v) Later in 2010, the Plaintiff joined M/s Mindtree Limited and moved to its on-site client, the American International Group [“AIG”] in Singapore.
- (vi) In 2015, the Plaintiff returned to India and contacted the Defendant No. 4 Company with the vision of commencing similar operations in India as the firm was carrying out in South Africa. Though the Plaintiff and the Defendant No. 4 Company were sceptical as to whether such a business would be successful or not, both parties came to an agreement that if the business picks up, the Plaintiff would get 25% share equity. This led to the formation of the Defendant No. 1 Company, wherein the Plaintiff and the Defendants No. 2 and 3 were the Directors.
- (vii) The Defendant No. 1 Company did not see a lot of revenue generation initially, which prevented the Directors from heavily investing in it. For this reason, it is stated that the Plaintiff’s father used to supply meters to the Defendant No. 1 Company on a six-months’ credit basis.
- (viii) The Defendant No. 4 Company’s product did not perform well in the Indian market. Ultimately, the Plaintiff was asked by the Defendant No. 4 Company to develop his own product, both hardware and software to suit the Indian market. Accordingly, the Plaintiff developed his own product, which ended up being successful in the market.
- (ix) In January, 2023, the Defendants No. 2 and 3 visited India for the first time after the incorporation of the Defendant No. 1 Company. Both of them were satisfied with the performance of the



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- Defendant No. 1 Company, which inclined them to proceed with the equity transfer of 25% to the Plaintiff.
- (x) However, somewhere in March, 2023, certain differences crept up between the Plaintiff and the Defendants, when the Plaintiff opposed to his credentials being used by the South African team.
- (xi) In addition, it is also stated that the Plaintiff's wife was working as a Sales Manager in the Defendant No. 1 Company between November 2018 and March 2023, which was duly disclosed in the firm's balance sheets, though none of the financials of the Defendant No. 1 Company were ever signed by the Plaintiff.
- (xii) A Legal Notice dated 14.03.2023 was sent on behalf of the Defendant No. 1 Company to the Plaintiff, alleging *inter alia* breach of fiduciary duties. In this Legal Notice, the Plaintiff was asked to cease and desist handling of all websites, services, etc. related to the Defendant No. 1 Company as well as pass on all the login credentials, so that none of the services remain in the Plaintiff's control. This was replied to by the Plaintiff on 28.04.2023, denying all the allegations levelled in the Legal Notice. Moreover, as per the Plaintiff, the real intention of the Defendants behind the Legal Notice was to reduce the equity share of the Plaintiff from 25% to 15% and to induce the Plaintiff into accepting the same.
- (xiii) Later on, in April 2023, a Shareholders Agreement ["SHA"] was entered into between the Defendant No. 1 Company and its respective shareholders. This SHA was signed by the Defendants No. 2 and 3 on 31.03.2023 and the Plaintiff on 10.04.2023,



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- wherein the Plaintiff was offered approximately 15% of the entire share capital (1763 shares) of the Defendant No. 1 Company, while 85% (9990 shares) remained with the Defendant No. 4 Company. However, as per the Plaintiff, the Defendants in reality only allotted him less than 1% of the shares, which the Plaintiff discovered after conducting enquiries into the authorised share capital of the Defendant No. 1 Company.
- (xiv) It is stated that on 17.04.2023, the Plaintiff contacted the Defendants, asking them to allot the agreed upon share to him. Thereafter, a Notice for holding of an Extra Ordinary General Meeting was given on behalf of the Defendant No. 1 Company, wherein the agenda was set for increasing of the existing share capital of the Defendant No. 1 Company. In this regard, a Shorter Notice Consent for the EGM was given by the authorised signatory of the Defendant No. 4 Company as well as the Plaintiff.
- (xv) The EGM was held on 20.04.2023 and a new set of Memorandum of Association for the Defendant No. 1 Company was adopted.
- (xvi) It is stated that even after the EGM, the Defendants continued to take undue advantage of the Plaintiff, which constrained the Plaintiff to resign from the Defendant No. 1 Company on 03.05.2023, leaving behind all his equity. The Plaintiff's resignation was accepted *vide* an email dated 04.05.2023 and on the same date, a Resolution was passed by the Defendants No. 2 and 3 in a board meeting, to the effect that the Plaintiff shall no longer be serving on the Defendant No. 1 Company's board.



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(xvii) Subsequently, the Plaintiff was requested by the Defendant No. 1 Company's staff to submit his laptop and cheque-book, however, when the Plaintiff came to do so on 06.05.2023, no one came to collect them. Later, on 22.05.2023, the Plaintiff received a call from the SHO of Sector-50 Police Station, informing him that a complaint against the Plaintiff was lodged by the Defendants regarding the laptop and a mobile application source code. Though, as per the Plaintiff, he was always ready to return the laptop and even the mobile application source code was already returned to the Defendants.

(xviii) On 24.05.2023, a Letter was addressed by MG Attorneys on behalf of the Defendants, to the clients of the Defendant No. 1 Company, societies as well as the public at large, alleging fraud, embezzlement and corporate sabotage by the Plaintiff and his father. As per the Plaintiff, contents of this Letter are moonshine, unfounded, malicious, defamatory and have the effect of causing the Plaintiff's loss of reputation and future prospects. As a result, the Plaintiff approached this Court by filing the instant Suit, praying for the reliefs of permanent and mandatory injunction against the Defendants, damages as well as rendition of accounts for all the works done and billed by the Defendant No. 1 Company till the date on which the Plaintiff resigned.

4. The Suit was instituted on 29.05.2023. It is pertinent to mention that the requirement under Section 12A of the CC Act had not been followed by the Plaintiff as the Plaintiff had not instituted the pre-litigation mediation or sought exemption from the same. Summons were issued on 01.06.2023. It is



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pertinent to mention that though the Plaintiff had moved an application being I.A. 11013/2023 under Section XXXIX Rules 1 & 2 of CPC seeking urgent interim relief, however, on the said date, the Plaintiff did not press that application, meaning thereby, no urgent relief was anyway contemplated. Written Statements along with affidavits of admission/denial to the Plaintiff's documents have been filed by the Defendants No. 1, 2 and 3. Additionally, the Order dated 08.11.2023 reflects that the Defendant No. 4 has adopted the written statements filed on behalf of the Defendants No. 1, 2 and 3. Replications to the respective written statements also stand filed by the Plaintiff. Perusal of the record further indicates that the Joint Schedule of Documents stands filed and the process of marking of exhibits also stands concluded. However, issues are yet to be framed.

5. The Application under consideration is I.A. No. 22224/2023 which has been filed by the Defendant No. 1 under Order VII Rule 11(a) & (d) of the CPC, seeking rejection of the Plaint *inter alia* on the ground that the instant Suit does not qualify as a 'commercial dispute' in terms of Section 2(1)(c) of the CC Act and as such, is barred by law.

6. Another ground raised by the Defendant No. 1 Company by way of the instant Application, is that the Plaintiff has by-passed the mandatory requirement of a Pre-Litigation Mediation prescribed under Section 12-A of the CC Act. In support of this contention, the learned Counsel for the Defendant No. 1 relies on the judgments of the Apex Court in Patil Automation (P) Ltd. v. Rakheja Engineers (P) Ltd., (2022) 10 SCC 1, Yamini Manohar v. T.K.D. Keerthi, (2024) 5 SCC 815 and Novenco Building and Industry A/S v. Xero Energy Engineering Solutions Private Ltd., 2025 SCC OnLine SC 2278.



7. Heard the learned Counsels for the parties and perused the material on record.
8. At the outset, this Court reminds itself of the principles to be kept in mind while adjudicating an application filed under Order VII Rule 11 of the CPC.
9. In Popat and Kotecha Property v. State Bank of India Staff Assn., (2005) 7 SCC 510, the Apex Court observed as under:

“13. Before dealing with the factual scenario, the spectrum of Order 7 Rule 11 in the legal ambit needs to be noted.

14. In Saleem Bhai v. State of Maharashtra [(2003) 1 SCC 557] it was held with reference to Order 7 Rule 11 of the Code that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Order 7 Rule 11 of the Code, the averments in the plaint are the germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage.

15. In I.T.C. Ltd. v. Debts Recovery Appellate Tribunal [(1998) 2 SCC 70] it was held that the basic question to be decided while dealing with an application filed under Order 7 Rule 11 of the Code is whether a real cause of action has been set out in the plaint or something purely illusory has been stated with a view to get out of Order 7 Rule 11 of the Code.

16. The trial court must remember that if on a meaningful and not formal reading of the plaint it is



manifestly vexatious and meritless in the sense of not disclosing a clear right to sue, it should exercise the power under Order 7 Rule 11 of the Code taking care to see that the ground mentioned therein is fulfilled. If clever drafting has created the illusion of a cause of action, it has to be nipped in the bud at the first hearing by examining the party searchingly under Order 10 of the Code. (See T. Arivandandam v. T.V. Satyapal [(1977) 4 SCC 467] .)

17. It is trite law that not any particular plea has to be considered, and the whole plaint has to be read. As was observed by this Court in Roop Lal Sathi v. Nachhattar Singh Gill [(1982) 3 SCC 487] only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.

18. In Raptakos Brett & Co. Ltd. v. Ganesh Property [(1998) 7 SCC 184] it was observed that the averments in the plaint as a whole have to be seen to find out whether clause (d) of Rule 11 of Order 7 was applicable.

19. There cannot be any compartmentalisation, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time it should be borne in mind that no



pedantic approach should be adopted to defeat justice on hair-splitting technicalities.

20. Keeping in view the aforesaid principles the reliefs sought for in the suit as quoted supra have to be considered. The real object of Order 7 Rule 11 of the Code is to keep out of courts irresponsible law suits. Therefore, Order 10 of the Code is a tool in the hands of the courts by resorting to which and by searching examination of the party in case the court is prima facie of the view that the suit is an abuse of the process of the court in the sense that it is a bogus and irresponsible litigation, the jurisdiction under Order 7 Rule 11 of the Code can be exercised.”

10. What flows from above is that a plaint cannot be rejected on the basis of allegations levelled by the defendant in the written statement or for that matter, in an application moved under Order VII Rule 11 CPC. Only the material facts are required to be stated in the plaint without referring to the evidence, except in circumstances where the pleadings relate to misrepresentation, fraud, undue influence, wilful default, etc. The plaint must be read as a whole to determine as to whether it discloses a cause of action. In undertaking the said exercise, the court is not expected to consider a particular plea. Instead, the averments made in the plaint in entirety, have to be taken to be correct. As long as the court is satisfied that the plaint discloses some cause of action that requires determination, the plaint ought not to be rejected. Since a cause of action comprises of a bundle of facts, the same are required to be proved by the plaintiff only at the stage of the trial. At the end of the day, the court must be mindful of the underlying object of Order VII Rule 11 of the CPC which is to nip in the bud, irresponsible and



vexatious suits. At the same time, the opinion of the court that the plaintiff may not ultimately succeed in the suit ought not to form the basis for rejecting the plaint.

11. Keeping the above principles in mind, this Court deems it fit to first deal with the issue of whether the instant Suit falls within the definition of a ‘commercial dispute’ under Section 2(1) of the CC Act, for the reason that if it is found that the Suit does not involve any ‘commercial dispute’, fulfilment of the requirement under Section 12-A of the CC Act would not come into play.

12. In this regard, this Court reminds itself of the observations of the Apex Court in Ambalal Sarabhai Enterprises Ltd. v. K.S. Infraspace LLP, (2020) 15 SCC 585, particularly, where it was noted that Section 2(1)(c) of the CC Act will have to be interpreted strictly. Relevant paragraph of the aforesaid judgment is being extracted below:

“The learned Senior Advocate for the appellant would however, contend that a strict interpretation as in the case of taxing statutes would not be appropriate in the instant case where the issue relates to jurisdiction. In that regard, the learned Senior Advocate has referred to the Statement of Objects and Reasons with which the Commercial Courts Act, 2015 is enacted so as to provide speedy disposal of high value commercial disputes so as to create the positive image to the investors world about the independent and responsive Indian legal system. Hence, he contends that a purposive interpretation be made. It is contended that a wider purport and meaning is to be assigned while entertaining the suit and considering the dispute to be a commercial dispute. Having taken note of the submission we feel that the very purpose for which the CC Act of 2015 has been enacted would be defeated if



every other suit merely because it is filed before the Commercial Court is entertained. This is for the reason that the suits which are not actually relating to commercial dispute but being filed merely because of the high value and with the intention of seeking early disposal would only clog the system and block the way for the genuine commercial disputes which may have to be entertained by the Commercial Courts as intended by the lawmakers. In commercial disputes as defined a special procedure is provided for a class of litigation and a strict procedure will have to be followed to entertain only that class of litigation in that jurisdiction. If the same is strictly interpreted it is not as if those excluded will be non-suited without any remedy. The excluded class of litigation will in any event be entertained in the ordinary civil courts wherein the remedy has always existed.”

13. Keeping in mind the aforesaid judgment, this Court shall now look at the reasoning given by the Plaintiff for filing the instant Suit as one under the CC Act. The justification for filing the instant Suit as a commercial one, has been stated at Paragraph No. 39 of the Plaint, which states that the disputes between the parties arise out of various agreements including the SHA and the Defendant No. 1 Company being involved in trade and commerce. Thus, the Plaintiff has relied upon Paragraphs (xii) and (xviii) under Section 2(1)(c) of the CC Act. The same are being extracted below for reference:

“2. Definitions.—(1) In this Act, unless the context otherwise requires,—

xxx



(c) “commercial dispute” means a dispute arising out of—

(xii) shareholders agreements;

(xviii) agreements for sale of goods or provision of services;”

14. Keeping in view that the reliefs sought by the Plaintiff are against the impugned Letter dated 24.05.2023, contents of which are alleged to be defamatory and malicious, this Court does not see any dispute which is commercial in nature.

15. The Suit instituted by the Plaintiff entirely hinges on his claim that shortly after his resignation from the Defendant No. 1 Company, the Defendants No. 2 and 3 began targeting the Plaintiff by filing a malicious police complaint and thereafter addressing the impugned Letter dated 24.05.2023 to the clients of the Defendant No. 1 Company. While admittedly, the factual narration involves the SHA, coupled with the element that the Defendant No. 1 Company is involved in the provision of services, the ultimate point of dispute arose only when the Impugned Letter dated 24.05.2023 was addressed on behalf of the Defendant No. 1 Company to its clients, which the Plaintiff claims to be defamatory in nature. There is nothing which can be termed as ‘commercial’ in this background. In fact, even the Plaintiff does not disclose any dispute which even remotely arises from any agreement whatsoever. In addition, reading of the Impugned Letter dated 24.05.2023 also does not suggest any involvement of an agreement.

16. It is further unclear as to on what basis the relief of rendition of accounts has been sought, when no particulars for the same have been



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provided by the Plaintiff. Even if allegations of embezzlement are made against the Plaintiff in the Impugned Letter dated 24.05.2023, this Court is not saddled with the duty to ascertain if any amount in fact has been embezzled or not. This is for the reason that these aspects would require a separate adjudication, either by a criminal court or by the specialized tribunals.

17. As such, this Court is of the considered view that since the Plaint does not disclose any dispute of commercial nature, this Court lacks jurisdiction to entertain and decide the matter. Resultantly, the Plaint is ordered to be returned to the Plaintiff in terms of Order VII Rule 10 of the CPC, for being presented as a non-commercial suit before the concerned court of competent jurisdiction, in accordance with law.

18. Resultantly, the Plaint is returned under Order VII Rule 10 of the CPC, as not being a commercial suit, for being filed as an ordinary suit.

19. Needless to state, the Plaintiff will be entitled to the benefit of Section 14 of the Limitation Act, 1963.

20. The application is allowed.

SUBRAMONIUM PRASAD, J

APRIL 23, 2026

S. Zakir/AP