



**120 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-1126-2023 (O&M)

Date of decision : 01.05.2025

MINTEX INDIA and another

...Petitioners

Vs.

Mrs. Kanta Dahiya and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Jagdish Manchanda, Advocate
Mr. Yogit Mehta, Advocate
Mr. Devyansh Arora, Advocate
for the petitioners.

Mr. Denson Joseph, Advocate
for respondent No.1.

ANIL KSHETARPAL, J. (Oral)

1. The defendants No. 1 and 2 assail the correctness of The Commercial Courts' order passed on 22.03.2022 while dismissing their application to reject the plaint under Order VII Rule 11 of the Code of Civil Procedure, 1908.

2. In substance, the plaintiff filed a suit for specific performance of the agreement to sell alongwith a relief of temporary injunction. She also filed a separate application for grant of *ex parte* temporary injunction as the defendants were planning to alienate the property, which was granted. The defendants on appearance filed an application to reject the plaint on the ground that Pre-institution Mediation and Settlement as provided under Section 12-A of the Commercial Courts Act, 2015 (hereinafter referred to as 'the 2015 Act') has not been held. The trial Court held that Section 12-A of the 2015 Act is



applicable when the suit does not contemplate any urgent relief. In any case, the Court ordered the parties to appear before the Mediator for exploring the possibility of settlement.

3. The correctness of such order passed by the Court is challenged in this revision petition.

4. Learned counsel representing the petitioners while relying upon the judgment passed by the Supreme Court in 'M/s. Patil Automation Private Limited and others vs. Rakheja Engineers Private Limited' 2022, AIR (Supreme Court) 3848 submits that such provision is mandatory and hence, the plaint was required to be rejected.

5. *Per contra*, learned counsel representing the respondents submits that Section 12-A of the 2015 Act is not applicable as the application for urgent interim relief was filed. He submits that in any case now the mediation has also failed.

6. This Court has considered the submissions made by the learned counsel representing the parties.

7. Section 12-A of the Commercial Courts Act, 2015 reads as under:-

"12A. Pre-Institution Mediation and Settlement.--(1)
A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of preinstitution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(2) *The Central Government may, by notification, authorise the Authorities constituted under the*



Legal Services Authorities Act, 1987 (39 of 1987), for the purposes of pre-institution mediation.

- (3) *Notwithstanding anything contained in the Legal Services Authorities Act, 1987 (39 of 1987), the Authority authorised by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1):*

Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:

Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963 (36 of 1963).

- (4) *If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.*

- (5) *The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996 (26 of 1996)."*

8. On plain reading of Section 12-A(1) of the 2015 Act, it is evident that a suit which contemplates any urgent interim relief is not governed by this provision. In any case, now the Mediation proceedings have held.



9. Keeping in view the aforesaid facts, no ground to interfere is made out.

10. Hence, the revision petition is dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

01.05.2025
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No