



2025 INSC 1300

REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2025
(Arising out of SLP (Civil) No(s). 10428 of 2025)

**MITC ROLLING MILLS
PRIVATE LIMITED AND ANR.APPELLANT(S)**

VERSUS

**M/S. RENUKA REALTORS
AND ORS. RESPONDENT(S)**

J U D G M E N T

Mehta, J.

1. Heard.
2. Leave granted.
3. The instant appeal is directed against the final judgment and order dated 17th February, 2025, passed by the High Court of Judicature at Bombay¹

Signature Not Verified
Digitally signed by
NEETU KHAMORIA
Date: 2025.01.10
16:57:20 IST
Reason:

¹Hereinafter, referred to as the “High Court”.

in Commercial First Appeal No. 8 of 2023, arising out of Commercial Suit No. 06 of 2021, whereby the High Court disposed of the appeal preferred by MITC Rolling Mills Pvt. Ltd.², through its authorized officer Shri Dinkar Trimbak Kajale, as a *non-suit* simpliciter, holding the same to be non-maintainable under Section 13(1A) of the Commercial Courts Act, 2015³.

4. The facts relevant and essential for the adjudication of the present appeal are mentioned hereinbelow.

5. The appellant-company instituted Commercial Suit No. 06 of 2021 before the Court of District Judge, Nashik⁴ seeking recovery of a sum of Rs.1,64,60,528/- (Rupees One Crore Sixty-Four Lakhs Sixty Thousand Five Hundred Twenty Eight Only) towards principal and Rs.87,78,300/- (Rupees Eighty Seven Lakhs Seventy-Eight Thousand Three Hundred Only) towards interest, aggregating to Rs.2,52,38,828/- (Rupees Two Crores Fifty-Two Lakhs Thirty-Eight Thousand Eight Hundred Twenty-Eight Only), alleging that the respondents

² Hereinafter, referred to as the “appellant-company”.

³ For short, ‘CCA, 2015’.

⁴ Hereinafter, referred to as the “trial Court”.

failed to make payment for the supply of TMT/Fe-500 material effected by the appellant-company.

6. Upon appearance, the respondents filed an application under Order VII Rule 11 of the Code of Civil Procedure, 1908,⁵ seeking rejection of the plaint on the ground that the appellant-company had not undertaken the mandatory Pre-Institution Mediation and Settlement (PIMS) as contemplated under Section 12A of the CCA, 2015. The trial Court accepted the said application and rejected the plaint *vide* order dated 10th November, 2022. At this stage, the detailed factual matrix concerning the filing of an interim application by the appellant-company for urgent interim reliefs along with the suit, the prayer for exemption from pre-institution mediation, and the aspect of non-consideration of the same is not being adverted to.

7. Being aggrieved by the rejection of the plaint, the appellant-company preferred an appeal under Section 13(1A) of the CCA, 2015, before the High Court, raising various grounds for consideration. The High Court, however, proceeded to dismiss the

⁵ For short, 'CPC'.

appeal as not maintainable, holding that an order rejecting the plaint does not fall within the ambit of Order XLIII of CPC, and therefore, such a challenge could not be maintained under Section 13(1A) of the CCA, 2015, read with the proviso appended thereto. The order passed by the High Court is under challenge in the present proceedings by way of special leave.

8. To buttress the contention questioning the legality of the impugned order, Shri Jay Savla, learned senior counsel representing the appellant-company, referred to Section 2(2) of the CPC, which reads as below: -

“(2) “decree” means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. **It shall be deemed to include the rejection of a plaint** and the determination of any question within section 144, but shall not include

(a) any adjudication from which an appeal lies as an appeal from an order, or

(b) any order of dismissal for default.”

9. Learned senior counsel fervently urged that the expression ‘decree’ means a formal expression of an adjudication which conclusively determines the rights of the parties and includes within its ambit the rejection of a plaint. He submitted that by virtue of the clear definition of ‘decree’ as provided under Section 2(2) of the CPC, an order passed under Order VII Rule 11 of the CPC rejecting the plaint is deemed to be a decree as the same is a final adjudication of the *lis* before the concerned Court. Consequently, the appeal preferred under Section 13(1A) of the CCA, 2015 was maintainable and the High Court committed a grave error in holding otherwise. It was thus contended that the impugned judgment is *ex facie* unsustainable in law and the present appeal deserves to be accepted.

10. *Per contra*, learned senior counsel Shri Sukumar P. Joshi, representing the respondents, vehemently urged that the view taken by the High Court holding the appeal to be not maintainable is supported by the judgment of the Bombay High Court in ***Bank of India v. Maruti Civil Works***⁶, which a

⁶ 2023 SCC OnLine Bom 2667.

three-Judge Bench of this Court has affirmed *vide* order⁷ dated 15th March, 2024. Thus, the High Court was wholly justified in rejecting the appeal preferred by the appellant-company.

11. He, therefore, urged that the appeal deserves to be dismissed as the impugned judgment is in consonance with the settled legal position and does not warrant any interference by this Court in exercise of jurisdiction under Article 136 of the Constitution of India.

12. We have given our thoughtful consideration to the submissions advanced at the bar and have gone through the impugned judgment and the material placed on record. We have also carefully perused the precedent(s) cited by the learned counsel for the parties.

13. The controversy essentially hinges around the question as to whether an order rejecting the plaint under Order VII Rule 11 of the CPC is appealable under Section 13(1A) of the CCA, 2015.

14. There cannot be any two views on the aspect that an order rejecting the plaint under Order VII

⁷ ***Bank of India & Ors v. M/s Maruti Civil Works***, SLP(C) 6039 of 2024.

Rule 11 CPC decides the *lis* finally and would tantamount to a decree within the meaning of Section 2(2) CPC. Reference in this regard may be made to a decision of this Court in ***Shamsher Singh v. Rajinder Prashad***⁸, wherein a plaint was rejected under Order VII Rule 11(b) for not being properly valued for purposes of court-fees and jurisdiction. The relevant paragraph from the above judgment is quoted hereinbelow:

“3. In the present case, the plaint was rejected under Order 7 Rule 11 CPC. Such an order amounts to a decree under Section 2(2), and there is a right of appeal open to the plaintiff. Furthermore, in a case in which this Court has granted special leave, the question whether an appeal lies or not does not arise. Even otherwise, a second appeal would lie under Section 100 of the CPC on the ground that the decision of the first appellate court on the interpretation of Section 7(iv)(c) is a question of law. There is thus no merit in the preliminary objection.”

[Emphasis supplied]

15. There is also no cavil with the proposition that a decree passed by a Commercial Court at the level of a District Judge exercising original civil jurisdiction or, as the case may be, the Commercial

⁸ (1973) 2 SCC 524.

Division of a High Court would ordinarily be appealable before the High Court under Section 13(1A) of the CCA, 2015, read with the applicable provisions of the CPC.

16. At this stage, it would be apposite to take note of Section 13(1A) of the CCA, 2015, which reads as under :

“13. Appeals from decrees of Commercial Courts and Commercial Divisions —

(1) xx

(1A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided **that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act** and Section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).]”

[Emphasis supplied]

17. Section 13(1A) of the CCA, 2015, is in two distinct parts. The main provision contemplates appeals against ‘*judgments*’ and ‘*orders*’ of the

Commercial Court to the Commercial Appellate Division of the High Court. The proviso, operating as an exception, must be construed harmoniously with the main provision and not in derogation thereof. Where the language of the main provision is plain and unambiguous, the proviso cannot be invoked to curtail or whittle down the scope of the principal enactment, save and except where such exclusion is clearly and expressly contemplated. The proviso merely restricts appeals against interlocutory orders to those specifically enumerated under Order XLIII CPC and Section 37 of the Arbitration and Conciliation Act, 1996. Consequently, only such interlocutory orders as are expressly specified therein would be amenable to an appeal under the proviso; orders not so enumerated would not fall within the restricted fold of the proviso.

18. Coming to the judgment relied upon by the respondents, i.e., ***Bank of India (supra)***, we are of the view that the same is clearly distinguishable, and the ratio thereof has no applicability to the present situation because, in the said case, the order under challenge was one **rejecting** the application moved under Order VII Rule 10 or under Order VII Rule 11(d)

of the CPC. Paragraph No. 17, relied upon by the respondents for canvassing their submission, reads as under :

“17. Sub Section 1A of Section 13 provides that a person aggrieved by a judgment or order can file an appeal, however, the said provision is to be read in conjunction with the proviso which specifically states that an appeal shall lie only from orders which are specifically enumerated under Order XLIII of the CPC. The occurrences of the expression “shall” and “specifically” in the proviso has to be noted for correctly understanding the legislative intent in framing the scheme of Section 13 of the Act of 2015. **It is also noteworthy that the order under challenge in this appeal has been passed by the learned trial court rejecting the Application moved by the Defendants under Order VII Rule 10 and Rule 11(d) of the CPC. Such an order is not enumerated in Order XLIII of the CPC, though Rule 1(a) of Order XLIII enlists an order passed under Order VII Rule 10 for returning the plaint. Thus, Order XLIII enlists the order passed on an Application under Order VII Rule 10 if it is allowed; however, it does not enlist the order in case such an Application is rejected.** Order XLIII also does not enlist any order passed on an Application under Order VII Rule 11(d) of the CPC.”

[Emphasis supplied]

19. A bare reading of the above paragraph makes it manifest that the said case involved a challenge to an order rejecting application(s) under Order VII Rule 10 and Order VII Rule 11(d) of the CPC, which order(s) are not enumerated under Order XLIII of the CPC. Thus, there cannot be any quarrel with the proposition that such an order would not be amenable to an appeal under Section 13(1A) of the CCA, 2015, and rather, can be challenged by filing a revision or a petition/application under Article 227 of the Constitution of India, as the case may be.

20. The plaintiff who is aggrieved of the order rejecting the plaint under Order VII Rule 11 CPC cannot be left remediless or compelled to institute a fresh suit for availing such a challenge.

21. In wake of the discussion made hereinabove, the impugned order does not stand to scrutiny and is hereby quashed and set aside. The appeal preferred by the appellant-company in the High Court is held to be maintainable and hence, restored to its file and original number. The High Court shall consider and decide the same on merits, in accordance with law.

22. The appeal is allowed accordingly. No order as to costs.

23. Pending application(s), if any, shall stand disposed of.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
NOVEMBER 10, 2025.