



2026:CHC-OS:385

**In the High Court at Calcutta
Commercial Division
Original Side**

Judgment (2)

**PRESENT :
THE HON'BLE JUSTICE ANIRUDDHA ROY**

**IA NO. GA-COM/1/2026
In CS-COM/94/2026**

**SRI SOMNATH MONDAL
Vs
MAITRA SERVICENTER AND ORS.**

**For the plaintiff : Mr. Suptrick Shyamal, Sr. Adv.
Ms. Shamolima Sarkar, Adv.
Ms. Sonali Sengupta, Adv.
Ms. Nisha Das, Adv.
Ms. Paromita Barik, Adv.**

**For the defendant no. 3 : Mr. Rupak Ghosh. Adv.
Mr. Ayan Dutta, Adv.**

**For the defendant
nos. 4, 5 and 6 : Mr. Pushpendu Chakraborty, Adv.**

Heard on : September 10, 2026

**Judgment on : September 10, 2026
[In Court]**



ANIRUDDHA ROY, J :

1. It is true that when the plaint was presented, leave has been granted by this Court under **Section 12A of the Commercial Courts Act** and also under **Clause 12 of the Letters Patent, 1865** along with the leave under **Order II Rule 2** of the **Code of Civil Procedure, 1908**.
2. Today, when the interlocutory application praying for injunction is moved on behalf of the plaintiff, after hearing Ms. Shamolima Sarkar, learned advocate appearing for the plaintiff and the objection taken by the defendant on the territorial jurisdiction of this Court, this Court finds that no part of cause of action had arisen within the territorial limit of this Court, as would be evident from the relevant averments made in the plaint in **paragraph 36** of the plaint.
3. The reliefs claimed in the plaint would show that primarily the plaintiff has claimed specific performance of an understanding/ agreement between the plaintiff and the defendant nos. 1 to 3. None of these defendants are within the territorial jurisdiction of this Court, nor any cause of action has arisen within the territorial jurisdiction of this Court. The plaintiff submits that the plaint is maintainable on the basis of an alleged social media publication at **page 146** of the injunction application.



4. On perusal of the said social media publication, this Court is also not convinced that any cause of action has arisen within the territorial jurisdiction of this Court.
5. Inasmuch as, Mr. Rupak Ghosh, learned advocate appearing for the defendant no. 3 submits that the instant suit is also a suit for land as the immovable asset of the partnership firm is situated beyond the territorial jurisdiction of this Court.
6. Mr. Pushpendu Chakraborty, learned advocate appears for the defendant no. 4 to 6/ the Oil Company.
7. On query being raised by this Court, learned advocate appearing for the plaintiff submits that they have received instruction from the client praying for return of the plaint so that the plaint can be filed before the jurisdictional Civil Court.
8. The law is well-settled that, while granting leave under **Clause 12 of the Letters Patent, 1865**, the Court shall only look at the averments made in the plaint, whereas while adjudicating an application for injunction, even at the *ad interim* stage also, Court is empowered to cause a deeper enquiry including enquiry relating to the jurisdiction of the Court. *Prima facie* case includes the point of jurisdiction of the Court. Therefore, when the Court finds that no cause of action actually arose within the territorial limit of this Court, this Court, even though has granted leave under **Clause 12 of the Letters Patent, 1865**, is empowered to revoke the leave because any order passed or to be passed by the Court, which



otherwise does not have jurisdiction over the matter, will *ex facie* be a nullity.

9. In view of the above, the leave granted under **Clause 12 of the Letters Patent** on **August 4, 2026** stands **revoked**.
10. Since this is a commercial suit, consequently the leave granted under **Section 12 A of the Commercial Courts Act, 2015** also stands **revoked**. Identically, leave granted under **Order II Rule 2 of Code of Civil Procedure, 1908** also stands **revoked**.
11. However, it is made clear that the plaint is returned to the plaintiff to present the same before the jurisdictional Commercial Court.
12. It is made clear that this Court has not expressed any opinion on the merits of the plaint case or on the injunction application. It is also made clear that all points are left open for the parties to urge before the jurisdictional Commercial Court.
13. Observation, if any, made by this Court shall not influence the jurisdictional Commercial Court while adjudicating the suit and the connected interlocutory application and the jurisdictional Commercial Court shall decide the suit and the interlocutory application on their respective merits in accordance with law. Plaintiff shall be at liberty to renew its prayer for injunction before the jurisdictional Civil Court.
14. Court Fees already paid by the plaintiff shall be returned to the plaintiff and the same can be utilized by the plaintiff in the



subsequent suit before the jurisdictional commercial Court in accordance with law.

15. It is further clarified that filing of the suit before this Court and the admission of the plaint by this Court shall not prejudice the parties in any way.
16. Mr. Rupak Ghosh, learned advocate, on instruction from his learned advocate on record, submits that his client has already taken out an interlocutory application praying for revocation of leave granted under **Clause 12 of the Letters Patent** and **Section 12A of the Commercial Courts Act**. This Court has been informed that the application is lying at the office of the learned Master for scrutiny and then it shall be registered.
17. In the event the same has not yet been registered and the registration number has been granted, the same is not required to be registered at all, since the plaint has already been returned.
18. Learned advocate on record for the defendant no. 3 shall place a server copy of today's order before the learned Master forthwith.
19. Accordingly, **CS-COM/94/2026** along with the connected application **IA NO. GA-COM/1/2026** stand **disposed of**.

(ANIRUDDHA ROY, J.)

Arsad