M.P. NO. 2934/2026

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

&

HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

ON THE 23rd OF OCTOBER, 2026

MISC. PETITION No. 2934 of 2026

CNR No.: MPHC020175392026

NAIVEDYA ASSOCIATES THROUGH ITS PARTNER VINESH AGRAWAL

Versus

M/S KRITI NUTRIENTS PVT LTD THROUGH ATUL PARAKH AUTHORISED SIGNATORY

Appearance:

Shri Sunil Kumar Jain-Advocate for the petitioner through VC.

Shri Rajendra Bhansali –Advocate with Shri Vikram Malviya- Advocate for the respondent.

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ORDER

Per: Justice Jai Kumar Pillai :

1. The petitioner has approached this Court under Article 227 of the Constitution of India to challenge the order dated 27.04.2026. This impugned order was passed by the Commercial Court, District Judge Level, Indore in Commercial Case No. 41 of 2024. By the said order, the trial court dismissed the application filed by the petitioner under Order VII Rule 11 of the Code of Civil Procedure.

2. The core dispute between the parties relates to an alleged trademark infringement. The respondent claims rights over the marks "KRITI" and "KIRTI", while the petitioner uses the mark "NAV KIRTI". The present petition has been filed on the specific ground that the suit filed by the respondent at Indore was a fresh institution. Therefore, the petitioner argues that the suit must be rejected for failing to follow the mandatory pre-institution mediation required under Section 12-A of the Commercial Courts Act, 2015.

FACTS OF THE CASE

3. The respondent initially filed a civil suit under the Trade Marks Act, 1999 and the Copyright Act, 1957. The suit prayed for a

permanent injunction to stop the alleged infringement and passing off by the petitioner. This suit was first filed before the District Judge, Commercial Court-02, Shahdara, Karkardooma, Delhi along with an application for urgent interim relief.

4. The Commercial Court at Delhi considered the urgency and granted an ex-parte interim injunction in favour of the respondent on 20.03.2021. Later, the petitioner filed an application stating that the Delhi court did not have territorial jurisdiction to hear the matter. The Delhi court allowed this application on 06.03.2023. The court directed that the plaint be returned to the respondent, granting liberty to file the same before the competent court within six weeks.

5. Following this order, the respondent presented the suit before the learned Commercial Court at Indore on 13.07.2023. After presenting the suit, the respondent filed an application under Section 151 of the Code of Civil Procedure on 08.09.2023. Through this application, the respondent requested the court to continue the ex-parte injunction that was earlier granted by the Delhi court.

6. The petitioner appeared in the Indore court and filed a detailed written statement denying all allegations of trademark infringement. At the same time, the petitioner filed an application under Order VII Rule 11 of the Code of Civil Procedure. The petitioner

argued that presenting the returned plaint at Indore was a completely fresh filing. Since the respondent did not go for mediation before this fresh filing, the plaint must be rejected.

7. The learned trial court at Indore heard both parties on this application. Vide the impugned order dated 27.04.2026, the trial court dismissed the petitioner's application. The court reasoned that the suit was originally filed with a prayer for urgent relief, and therefore, the strict mandate of Section 12-A of the Commercial Courts Act was not applicable. Aggrieved by this decision, the petitioner has filed the present petition.

CONTENTIONS OF THE PETITIONER

8. Learned counsel for the petitioner strongly submits that the impugned order is contrary to the settled principles of law. The first major contention is that when a plaint is returned and filed in a new court, it is not a continuation of the old case. To support this, the petitioner relies on the judgment of the Supreme Court in the case of **EXL Careers and Ors. vs. Frankfinn Aviation Services Private Limited (2020) 12 SCC 667.** The counsel argues that under this judgment, the presentation at Indore on 13.07.2023 is a fresh and *de novo* institution in the eyes of the law.

9. The second major contention is based on the absolute mandatory nature of Section 12-A of the Commercial Courts Act. The petitioner places heavy reliance on the Supreme Court judgment in **Patil Automation Private Limited and Ors. v. Rakheja Engineers Private Limited (2022) 10 SCC 1.** The counsel points out that the Supreme Court has fixed a strict cut-off date of 20.08.2022. Any suit filed after this date without mediation must be rejected. Since the present suit was freshly filed on 13.07.2023, it is barred by law.

10. The petitioner also quotes paragraph 84 of the **Patil Automation (supra)** judgment: "We declare that Section 12A of the Act is mandatory and hold that any suit instituted violating the mandate of Section 12A must be visited with rejection of the plaint Under Order VII Rule 11." The counsel argues that the trial court completely ignored this binding direction.

11. Further, the petitioner relies on the recent decision in **Dhanbad Fuels Private Limited vs. Union of India (2025 INSC 696).** The counsel submits that in this case, the Supreme Court again held that Section 12-A is mandatory and failure to follow it is a jurisdictional bar that cannot be cured. It is argued that a plaint lacking mediation must meet the fate of rejection.

12. Finally, the petitioner contends that the respondent cannot bypass this strict law by filing an application under Section 151 of the Code of Civil Procedure. The counsel submits that an interim order passed by a court without territorial jurisdiction is a nullity. Therefore, the respondent cannot claim the exemption of "urgent interim relief" by trying to continue a dead order in a newly filed suit.

CONTENTIONS OF THE RESPONDENTS

13. Per contra, learned counsel for the respondent submits that the present petition is completely misconceived. The respondent accepts the legal position laid down in **EXL Careers (supra)** that the suit proceeds afresh. However, the counsel argues that this procedural rule does not destroy the statutory exception clearly provided within Section 12-A itself for cases involving urgent interim relief.

14. Regarding the **Patil Automation (supra)** judgment, the respondent submits that the said decision only applies to suits that do not seek urgent interim relief. The counsel argues that the declaration of the law as mandatory does not erase the exception written in the bare act. In the present case, urgent relief was sought in Delhi, granted in Delhi, and again prayed for in Indore.

15. The respondent also relies upon **Yamini Manohar v. T.K.D. Keerthi (2024) 5 SCC 815 and Dhanbad Fuels Pvt. Ltd. v. Union of India, 2025 INSC 696.** The counsel argues that these judgments clearly explain that if a suit contemplates urgent interim relief, the plaintiff does not have to go for pre-institution mediation. It is submitted that no separate permission is required to use this exception.

16. Lastly, the counsel points out that in intellectual property matters like trademark infringement, ongoing public confusion and commercial loss create extreme urgency. Forcing a party into mediation when urgent injunction is needed would defeat the purpose of justice. Therefore, the trial court correctly refused to reject the plaint.

ANALYSIS AND FINDINGS

17. We have heard the parties and carefully considered the material on record, the statutory provisions, and the case laws cited by both the parties.

18. The first issue is whether the suit filed at Indore is a fresh institution. Applying the law laid down by the Supreme Court in **EXL Careers and Ors. vs. Frankfinn Aviation Services Private Limited (2020) 12 SCC 667,** the answer is clear. When a plaint is returned

under Order VII Rule 10 of the Code of Civil Procedure and filed in a competent court, it is a *de novo* or fresh institution. Therefore, the suit at Indore legally began on 13.07.2023.

19. Since the suit was instituted on 13.07.2023, the petitioner is correct in arguing that it falls after the cut-off date of 20.08.2022. The Supreme Court in **Patil Automation Private Limited and Ors. v. Rakheja Engineers Private Limited (2022) 10 SCC 1** has clearly held that Section 12-A is mandatory for suits instituted after this cut-off date. This Court fully respects and applies this binding legal position. If a normal commercial suit is filed today without mediation, it must be rejected.

20. However, the legal analysis does not stop here. To properly analyse the dispute, it is necessary to reproduce the exact wording of the law. Section 12-A of the Commercial Courts Act, 2015 reads as follows:

> "Section 12A: Pre-Institution Mediation and Settlement.
>
> 12A. (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 pre-institution 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, for the purposes of pre-institution mediation.

(3) Notwithstanding anything contained in the Legal Services Authorities Act, 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.

(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."

21. This Court must look at the exact words of Section 12-A(1) of the Act. The section begins with a clear condition: "A suit, which



does not contemplate any urgent interim relief under this Act, shall not be instituted...". This means the legislature at its wisdom has consciously created two categories of commercial suits. The first category is normal suits, where mediation is compulsory. The second category is suits involving urgent interim relief, where mediation is not required.

22. The petitioner relies heavily on **Dhanbad Fuels Private Limited vs. Union of India (2025 INSC 696)** to state that non-compliance is a fatal jurisdictional bar. We have read the said judgment. The Supreme Court has indeed held that Section 12-A is mandatory. However, the same judgment clarifies that this mandatory nature applies only to cases that do not seek urgent interim relief. The judgments do not remove the express statutory exception provided by the legislature in Section 12-A(1).

23. The crucial question is whether the present suit contemplates urgent interim relief. The record shows that this is an intellectual property dispute regarding trademark infringement. The respondent originally sought urgent relief in the Delhi court and was granted an ex-parte injunction. Even after the plaint was returned and filed at Indore, the respondent filed an application on 08.09.2023 under Section 151 of the Code of Civil Procedure seeking to continue the interim protection.

24. The petitioner argues that the Delhi court order was a nullity, so the respondent cannot rely on it. This submission misses the core point. For the purpose of Section 12-A, the court does not have to decide if the previous interim order is legally valid. The court only has to see whether the plaintiff's suit "contemplates" or seeks urgent interim relief. The act of filing the application for injunction at Indore clearly demonstrates the respondent's intention to seek urgent protection from the court.

25. In intellectual property matters, the continued use of an allegedly infringing trademark can cause immediate and daily loss to the original owner. This creates a natural urgency. The trial court correctly observed that the respondent had pressed for urgent relief throughout the proceedings. When the plaintiff's actions clearly show a demand for urgent interim relief, the strict bar of mandatory pre-institution mediation does not apply to the case.

26. Therefore, this Court finds that the petitioner's reading of **Patil Automation (supra)** and **Dhanbad Fuels (supra)** is incomplete. The petitioner has focused only on the word "mandatory" but ignored the words "which does not contemplate any urgent interim relief". Since the present case falls squarely within the statutory exception, the respondent was not legally required to exhaust the remedy of pre-institution mediation before filing the suit at Indore.

27. This Court finds no error of jurisdiction or patent illegality in the order passed by the trial court. The trial court properly considered the pleadings, applied the correct provisions of law, and passed a well-reasoned order. The application under Order VII Rule 11 was rightly dismissed. There is no ground to interfere with the impugned order under the supervisory jurisdiction of this Court.

28. For the detailed reasons stated above, this Court concludes that the suit instituted by the respondent at the Commercial Court, Indore contemplates urgent interim relief. Consequently, the mandate of pre-institution mediation under Section 12-A of the Commercial Courts Act, 2015 is not applicable to the facts of the present case.

29. Accordingly, the present miscellaneous petition is devoid of merit and is hereby **dismissed**. The impugned order dated 27.04.2026 passed by the Commercial Court, District Judge Level, Indore in Commercial Case No. 41 of 2024 is hereby **affirmed**. The trial court is directed to proceed with the trial in accordance with the law.

30. There shall be no order as to costs. Pending interlocutory applications, if any, stand disposed of.

(Subodh Abhyankar) **(Jai Kumar Pillai)**

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Judge **Judge**

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