



\$~21

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

CNR No. DLHC010464352026

+ **CM(M)-IPD 53/2026 & CM APPL. 258/2026**

VASU AGRO TECH & ORS.

.....Petitioners

Through: Mr. Saurav Agrawal, Mr. Ajay Rajan,
Mr. Ajay Sharma, Ms. Anusha Sinha
and Mr. Devang Sherotia, Advs.

versus

JK OIL INDUSTRIES

.....Respondent

Through: Mr. Shravan Kumar Bansal, Mr. Arpit
Singh and Ms. Ayushi Arora, Advs.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

%

28.09.2026

1. The present petition is directed against the impugned order dated 14.08.2026 whereby the application filed by the plaintiff under Section 12-A of the Commercial Courts Act, 2015 (hereinafter, the "Act") was allowed and the plaintiff was exempted from pre-institution mediation.
2. Mr. Saurav Aggarwal, learned counsel appearing on behalf of the petitioners, submits that the Ld. Trial Court allowed the Section 12-A exemption application without recording any reasons, whatsoever.
3. Elaborating further, he further contends that the Ld. Trial Court has not considered the plaint and the document attached thereto, for ascertaining that the urgent relief is genuinely contemplated.
4. He submits that petitioners / defendants were represented through their counsel before the Ld. Trial Court but they were not given any opportunity either to file reply or to argue on the said application.



5. Mr. Shravan Kumar Bansal, learned counsel appearing on behalf of the respondent submits that he has no objection in case the impugned order, to the extent it allows the application under Section 12-A under the Act, is set aside and the matter is remanded back to the learned Trial Court for completion of pleadings in all the applications and for hearing the same.

6. Heard the learned counsel for the parties.

7. The Hon'ble Supreme Court in ***Novenco Building and Industry A/S v. Xero Energy Engineering Solutions Pvt. Ltd. & Anr.***¹ after considering its previous decisions culled out the following principles to be borne in mind while deciding the application under Section 12A of the Act:

“19. The legal test distilled from the aforesaid decisions for the purposes of rejection of the plaint and for adjudication of interim relief can be culled out as follows:

19.1. Section 12-A mandatorily requires pre-institution mediation for commercial suits, non-compliance of which would ordinarily render the plaint institutionally defective.

19.2. A plaintiff can be exempted from the requirement of Section 12-A only when the plaint and the documents attached with it clearly show a real need for urgent interim intervention. A wholesome reading of the plaint and the material annexed to the plaint ought to disclose the need for urgent relief.

19.3. The court must look at the plaint, pleadings and supporting documents to decide whether urgent interim relief is genuinely contemplated. The court may also look for immediacy of the peril, irreparable harm, risk of losing rights/assets, statutory timelines, perishable subject-matter, or where delay would render eventual relief ineffective.

19.4. A pro forma or anticipatory prayer for urgent relief used as a device to skip mediation will be ignored and the court can require the parties to comply with Section 12-A of the Act.

19.5. The court is not concerned with the merits of the urgent relief,

¹ (2025) SCC Online SC 2278



but if the relief sought seems to be plausibly urgent from the standpoint of the plaintiff the court can dispense with the requirement under Section 12-A of the Act.”

8. Having perused the impugned order the Court find merit in the submission of Mr. Aggarwal, the learned counsel for the petitioner. The counsel for the petitioner/defendant was present before the Ld. Trial Court when the impugned order came to be passed, therefore, the Ld. Trial Court ought to have afforded an opportunity to file reply to the application under Section 12A of the Act.

9. Further, Ld. Trial Court before allowing the application under Section 12A of the Act ought to have considered that the plaint and the material annexed to the plaint to come to the conclusion that the plaint discloses the need for urgent relief. This, however, was not done.

10. In view of the above, the impugned order dated 14.08.2026, to the extent it allows the application under Section 12-A of the Act, is set aside, and the matter is remanded back to the learned Trial Court.

11. Let the parties complete the pleadings in all the pending applications including the application under Section 12-A of the Act before the next date fixed before learned Trial Court.

12. The learned Trial Court will first consider the application under Section 12A of the Act before to proceeding to deal with other applications.

13. The petition, along with the pending applications, if any, is disposed of.

VIKAS MAHAJAN, J

SEPTEMBER 28, 2026

nsa/sj