

26 CS SCJ 1066/25

ADANI ENTERPRISES LTD Vs. PARANJOY GUHA THAKURTA
AND ORS

12.11.2025 (2.00 PM)

Present : Shri Jagdeep Sharma, Id. Sr. Advocate along with Shri Vijay Aggarwal (through VC), Shri Naman Joshi, Ms. Muskan Aggarwal, Sh. Rajat Jain and Sh. Verdaan Jain, Ld. Counsels for plaintiff.

Sh. Trideep Pais, Id. Sr. Advocate along with Sh. Apar Gupta, Ms. Indumugi. C, Sh. Naman Kumar, Ms. Avanti Deshpande, Ms. Sakshi Jain and Ms. Saloni Ambastha, Ld. Counsels for defendant no.1.

Ms. Vrinda Grover, Sh. Nakul Gandhi, Sh. Mujeeb, Ms. Tanish Gupta, Ms. Siddhi Sahoo and Sh. Sautik Banerjee, Ld.

Counsels for defendant no. 2 to 5.

Sh. Udhav Khanna, Sh. Dhruv Vig and Sh. Ayush Kevlani, Ld. Counsels for defendant no. 10 (through VC).

1. It is submitted by the Id. counsel for plaintiff that matter is fixed for arguments on application under Order 39 Rule 1 & 2 CPC and he is ready to make submission on the said application.

2. Ld. counsel for the defendant no.1 has submitted that in between dates, he has moved an application under Order 7 Rule 10 and Rule 11 (a) and (d) CPC as this Court lacks territorial jurisdiction to entertain the present suit and present suit is also not maintainable. It is vehemently submitted that Court should hear the application under Order 7 Rule 10 and Rule 11 (a) and (d) CPC first as defendant no.1 will be able to show at the very threshold and on the basis of plaint itself that this Court lacks the territorial jurisdiction and suit before this Court is not

maintainable. Ld. Counsel for defendant no.1 has relied upon the judgments of the Hon'ble Apex Court in cases **R.K. Roja Vs. U.S. Rayudu (2016) 14 SCC 275**, **Asma Lateef Vs. Shabbir Ahmad (2024) 4 SCC 696**, **Sopan Sukhdeo Sable Vs. Charity Commr. (2004) 3 SCC 137**, **Saleem Bhai Vs. State of Maharashtra (2003) 1 SCC 557**, **IEEE Mumbai Section Welfare Assn. Vs. Global IEEE Institute for Engineers 2025 SCC OnLine SC 1756** and **Indian International Centre Vs. Hema Gusain 2024 SCC OnLine Del 828** to assert that the Hon'ble Apex Court has explained in the said judgments that if the jurisdiction of the Court has been challenged, that objection/challenge is to be decided first as Court will be lacking the jurisdiction to grant any other relief in case the objection of the jurisdiction is found appropriate.

3. Ld. counsel for the plaintiff has vehemently opposed the submissions and has submitted that today matter is listed for arguments on application under Order 39 Rule 1 & 2 CPC and at the time of making submissions on application under Order 39 Rule 1 & 2 CPC, he will explain the jurisdiction of the Court as well as valuation. It is submitted that in case after conclusion of arguments, this Court finds that the objection of the defendant no.1 are well founded, the Court may dismiss the application as well as the suit filed by the plaintiff. It is submitted that by filing the application under Order 7 Rule 10 and Rule 11 (a) and (d) CPC, the defendant is adopting delaying tactics to delay the disposal of the suit and application under Order 39 Rule 1 & 2 CPC. It is submitted that ld. Appellate Court while setting aside the ex-parte ad-interim order has directed this Court to decide the application under Order 39 Rule 1 & 2 CPC within a time frame. It is further submitted that the issue regarding jurisdiction of Court has not been raised by the defendants before any of the ld. Appellate Courts and the same has been raised for the first time and

raising of such objection is nothing but aimed at delaying of the suit of the plaintiff.

4. In rebuttal submissions, it is submitted by Id. Counsel for the defendant no.1 that he is not delaying the matter. It is submitted that jurisdiction of Court is a legal objection and defendant has right to raise it at any moment. It is submitted that he has already filed his written statement and is not wasting time of the Court under the guise of filing of application under Order 7 Rule 10 and Rule 11 (a) and (d) CPC. It is submitted that Id. Appellate Court has not fixed any particular time to dispose off the application under Order 39 Rule 1 & 2 CPC.

5. From the consideration of submissions advanced on behalf of the parties, the Court is of the considered opinion that as issue of jurisdiction of the Court has been raised even before addressing arguments on application under Order 39 Rule 1 & 2 CPC, the Court should hear the submissions on application under Order 7 Rule 10 and Rule 11 (a) and (d) CPC first. In arriving at this opinion, the Court is guided by the observation of the Hon'ble Apex Court in case **Asma Lateef Vs. Shabbir Ahmad (2024) 4 SCC 696** wherein in paragraph no.5, it is held that :

“Once an application is filed under Order 7 Rule 11 CPC, the court has to dispose of the same before proceeding with the trial. There is no point or sense in proceeding with the trial of the case, in case the plaint (election petition in the present case) is only to be rejected at the threshold. Therefore, the defendant is entitled to file the application for rejection before filing his written statement. In case the application is rejected, the defendant is entitled to file his written statement thereafter (see Saleem Bhai v. State of Maharashtra²). But once an application for rejection is filed, the court has to dispose of the same before proceeding with the trial court. To quote the relevant portion from para 20 of 9 Sopan Sukhdeo Sable case: (SCC pp. 148-49)

20.Rule 11 of Order 7 lays down an independent remedy made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The law ostensibly does not contemplate at any stage when the objections can be raised, and also does not say in express terms about the filing of a written

statement. Instead, the word “shall” is used, clearly implying thereby that it casts a duty on the court to perform its obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of Rule 11, even without intervention of the defendant.”

6. Defendant no.1 is directed to supply copy of application under Order 7 Rule 10 and Rule 11 (a) and (d) CPC to the plaintiff against proper receiving today itself during course of the day. Plaintiff is directed to supply 3 days advance copy of reply to the said application, if any to the defendant against proper receiving.

7. Written statement has been filed on behalf of the defendants no.2 to 5 along with documents. Copy of the same be supplied to the plaintiff against proper receiving.

8. Be put up for reply/arguments on the application under Order 7 Rule 10 and Rule 11 (a) and (d) CPC on **03.12.2025 at 11.30 am.**

9. At this stage, ld. Counsel for the defendants no.2 to 5 has submitted that he shall file an application under Order 7 Rule 10 and Rule 11 (a) and (d) CPC in between dates. Defendants no.2 to 5 are strictly directed to supply advance copy of such application to the plaintiff at least 10 days before the next date of hearing against proper receiving. Plaintiff shall file reply to the same and will supply its 3 days advance copy before next date of hearing to the defendants no.2 to 5 against proper receiving. It is further submitted by the ld. Counsel for the defendant no.1 as well as defendants no.2 to 5 that they have not received notice of the application under Order II Rule 2 CPC filed on behalf of the plaintiff. Plaintiff is directed to supply copy of the same to the defendants within 2 days from today against proper acknowledgment.

(Mayank Mittal)
SCJ-cum-RC, North-West,
Rohini Courts, Delhi/12.11.2025