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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI****BEFORE****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

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**CS(OS) 896/2024****ARM DIGITAL MEDIA PVT. LTD.**

HAVING ITS REGISTERED OFFICE AT:

208, PLOT NO. 13, 2<sup>ND</sup> FLOOR

VARDHAMAN TIMES PLAZA

PITAMPURA, DELHI - 11003

THROUGH ITS DIRECTOR &amp; CEO

MR. ABHISHEK PUNIA

**ALSO AT:**PLOT NO. L07, 4<sup>TH</sup> FLOOR

SECTOR 44, GURGAON

HARYANA – 122003

**MR. ABHISHEK PUNIA**

H. NO. 917, FIRST FLOOR

SECTOR 47, GURUGRAM, HARYANA- 122001

**MR. MANAS GULATI**

B-1204, HERITAGE ONE

SECTOR 62, OPPOSITE PARAS TRINITY ULHAWAS

BADSHAPUR, GURGAON, HARYANA - 122101

....PLAINTIFFS

*(Through: Mr.Bishwjit Dubey, Mr. Mohit Rohatgi, Mr. Ashwini Tar, Mr. Nutan Keshwani, Advocates.)*

Versus

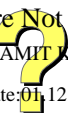
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**RITESH SINGH**  
35/1, HARMONY HONES  
SECTOR 57, GURAGON  
HARYANA – 122002

**ALSO AT:**  
B-3/3 -1, ALOHA APARTMENTS,  
SECTOR - 57, NATHUPUR, GURAGON,  
HARYANA - 122002

....DEFENDANT

(Through: *Mr. Sitikanth Nayak, Ms. Samiksha Tiwari, Advs.*  
*Mr. Vaibhav Tyagi, Adv. for R-4*  
*Mr. Ashutosh Gupta, Mr. Gaurav Rana, Advs. for D-5*  
*Mr. Saurabh Seth, Ms. Neealampreet Kaur, Mr. Abhiroop Rathore, Mr. Kabir Dev, Mr. Sukhbir Singh, Advs. for D-6)*

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Reserved on: 06.11.2025  
Pronounced on: 01.12.2025  
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### **JUDGMENT**

#### **I.A. 3226/2025 (under Order VII Rule 11(D) of CPC)**

The present application, has been filed by the defendant under Order VII Rule 11(d) of the Code of Civil Procedure, 1908 (hereinafter “CPC”), seeking rejection of the plaint on the ground that the suit is barred by law. The principal objections urged by the defendant are: (i) that the dispute constitutes a “commercial dispute” within the meaning of Section 2(1)(c)(xii) of the Commercial Courts Act, 2015 (hereinafter “CC Act”), thereby requiring the suit to be instituted exclusively before the Commercial Court and rendering it non-maintainable before this Court; (ii)



Consequently, that the suit is barred for want of compliance with the mandatory pre-institution mediation contemplated under Section 12A of the CC Act; and (iii) that the jurisdiction of the Civil court is expressly ousted under Section 430 of the Companies Act, 2013 (hereinafter “*Companies Act*”).

2. The suit relates to an Employment Agreement dated 08.09.2016 executed between plaintiff No. 1, a private limited company engaged in digital marketing and related services, and the defendant, who originally served as its Managing Director and later as a non-executive director. The plaintiffs allege, the defendant committed various breaches of his contractual and fiduciary obligations, including unilaterally increasing his own remuneration and failing to ensure statutory and secretarial compliances that fell within his area of responsibility. These issues were allegedly discovered between late 2022 and early 2023, leading to his redesignation and eventual resignation from the position of Managing Director on 31.03.2023.

3. Following his resignation, the defendant is stated to have joined a competing entity, Insite Digital Private Limited (hereinafter “*Icogz*”), as Chief Growth Officer, which the Plaintiffs contend violates non-compete, confidentiality, and non-solicitation obligations under the Employment Agreement and the Articles of Association (hereinafter “*AoA*”). The plaintiffs further allege that the conduct of the defendant is adverse to the interests of plaintiff No. 1, such as sharing confidential information, soliciting clients, and initiating multiple communications raising allegations of non-compliance by the plaintiffs. The defendant also issued a requisition





for an extraordinary general meeting and lodged investor complaints before the Registrar of Companies, which later formed part of oppression and mismanagement petitions filed before the National Company Law Tribunal (hereinafter “NCLT”).

4. In response to these developments, the plaintiffs claim that the defendant’s actions both during and after his employment have caused disruption to the company’s operations, including the conduct of its AGM, and have resulted in financial loss and reputational harm. While the underlying disputes intersect with shareholder dynamics and ongoing NCLT proceedings, the plaintiffs assert that the core issues in this suit relate to breaches of personal service obligations, misuse of confidential information, and violations of director fiduciary duties under Section 166 of the Companies Act.

### **Submissions of Parties**

5. The submissions of Mr Sitikanth Nayak, learned counsel appearing for defendant, are as follows :-

5.1 A bare reading of the plaint and the documents filed by the plaintiffs demonstrates that the *lis* emanates from the Employment-cum-Non-Solicitation/Non-Disclosure Agreement dated 08.09.2016. This agreement, however, is neither independent nor capable of existing in isolation, as it forms an integral and inseparable part of the Share Subscription-cum-Shareholders’ Agreement (hereinafter “SSSA”) dated 08.09.2016. Clause 4.1(f) of the SSSA expressly mandates that the promoters “*shall sign an*





*employment-cum-non-solicitation, non-disclosure agreement in the format provided in Schedule 7,”* and Document 43 is nothing but this Schedule 7.

5.2 Further, the recitals of Document 43, themselves expressly recognise that the employment arrangement arises “*in connection with the transactions contemplated by the SSSA*” establishing the inalienability of the two documents. Thus, any attempt by the plaintiffs to enforce Document 43 necessarily results in enforcement of the SSSA itself. Applying the principle recognised in catena of judgments, where two agreements are executed as part of a composite transaction, arise from one another, and are intended to operate together, they must be read conjointly and cannot be artificially separated. Accordingly, the present dispute is, in substance, a shareholders’ agreement dispute and squarely qualifies as a “commercial dispute” under Section 2(c)(xii) of the CC Act. Consequently, by virtue of Section 6 of the CC Act, the jurisdiction of this Court is barred and the plaint is liable to be rejected under Order VII Rule 11(d) CPC.

5.3 Consequently, the suit is also barred for non-compliance with mandatory pre-institution mediation under Section 12A of the CC Act.

5.4 It is further submitted that the suit is barred under Section 430 of the Companies Act. The plaintiffs’ own pleadings reveal that the defendant’s alleged actions pertain to his role as a director and shareholder of plaintiff no. 1. The plaintiffs rely upon Section 166 of the Companies Act to allege breach of fiduciary duties, thereby placing the dispute squarely within the purview of Section 166(7) and the statutory scheme governing directors’ duties.

5.5 Moreover, prayers (iii) and (vi) of the plaint seek declarations and prohibitory injunctions regulating the defendant’s participation in, and





interaction with, the affairs and functioning of plaintiff no. 1. Such reliefs directly fall within Section 242(2)(a) of the Companies Act which empowers the NCLT to regulate the conduct of the company's affairs. Consequently, Section 430 expressly bars the jurisdiction of civil courts to entertain matters which the NCLT/NCLAT are empowered to determine. Therefore, on this ground as well, the plaint is liable to be rejected under Order VII Rule 11(d) CPC.

5.6 In conclusion, reliance is placed on *Baskar Naidu v. Arvind Yadav*<sup>1</sup> to demonstrate that disputes arising from or connected with a shareholders' agreement fall within Section 2(1)(c)(xii) of the CC Act, and are triable exclusively by the commercial courts. Further reliance is placed on *A.D. Padmasingh Isaac v. Karaikudi Achi Mess Fairlands and Anr.*<sup>2</sup> and *M/s Patil Automation Pvt. Ltd. v. Rakheja Engineers Pvt. Ltd.*<sup>3</sup> to establish that the present suit is barred for want of compliance with the mandatory pre-institution mediation under Section 12A of the CC Act; and on *Suraj Prakash Arora & Ors. v. Roshanara Club Ltd. & Ors.*<sup>4</sup> to show that civil court jurisdiction is expressly barred under Section 430 of the Companies Act in matters relating to the conduct of affairs of the company and alleged breaches by a director.

6. *Per Contra*, the submissions of Mr. Bishwajit Dubey learned counsel for plaintiff, are as follows:

6.1 The plaint discloses a clear cause of action arising out of the breaches of the Employment Agreement, the Articles of Association and the statutory

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<sup>1</sup> W.P. NO. 6985 OF 2024

<sup>2</sup> 2023 SCC OnLine Mad 5144

<sup>3</sup> (2022) 10 SCC 1



duties under Section 166 of the Companies Act, and the suit is therefore maintainable.

6.2 In response to the first objection, the allegation that the suit is a commercial dispute because the Employment Agreement forms part of the SSSA is wholly untenable. The SSSA stood terminated by virtue of the Share Purchase Agreement dated 04.08.2022, which expressly terminated all “Existing Agreements,” including the SSSA. The Employment Agreement, however, was not terminated and continues to govern the relationship between the parties. While a template of the Employment Agreement was appended as a condition precedent to the SSSA, the Employment Agreement is an independent, stand-alone contract with its own terms, remedies and enforcement mechanism.

6.3 A recital referencing the SSSA does not merge the Employment Agreement into the SSSA nor converts an employment dispute into a commercial dispute. Courts have consistently held that employment disputes are not commercial disputes, including in *Chanda Kochhar v. ICICI Bank Ltd.*<sup>5</sup>, *Sanjay Kumar v. Elixir India*<sup>6</sup>, and *Ekanek Networks Pvt. Ltd. v. Aditya Mertia*<sup>7</sup>, and, therefore, the present suit does not fall under Section 2(c)(xii). The plaintiffs submit that the suit arises out of breaches of employment obligations, confidentiality covenants, non-compete clauses and fiduciary duties, none of which attract the CC Act.

6.4 Moreover, it is reiterated that termination of the SSSA has no bearing on the Employment Agreement, which is a separate agreement with a

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<sup>4</sup> 2025 SCC OnLine Del 2518

<sup>5</sup> (2021) 14 SCC 643

<sup>6</sup> WP. No.2584 OF 2023

<sup>7</sup> 2024 SCC OnLine Del 8302







distinct termination mechanism, and a similar argument wherein a party sought to characterize an ESOP Scheme as a shareholders' agreement under Section 2(c)(xii) of the CC Act, was categorically rejected by this Court in ***Rachit Malhotra v. One97 Communications Ltd***<sup>8</sup>.

6.5 As to the second objection, the contention that Section 430 of the Companies Act bars the suit is equally unfounded. Section 430 excludes civil court jurisdiction only where the NCLT is specifically empowered to adjudicate the issue. The present suit does not fall within the exclusive jurisdiction of the NCLT. The reliefs sought arise predominantly from breaches of the Employment Agreement, confidentiality violations, solicitation of employees, and breaches of statutory fiduciary duties under Section 166, all of which fall squarely within the jurisdiction of civil courts.

6.6 The NCLT has no jurisdiction to adjudicate breaches of employment contracts or to grant injunctions, damages or declaratory reliefs of the nature sought here. Out of nine substantive prayers, the defendant objects only to two; even assuming those two fall within the Companies Act, the plaint cannot be rejected if any part of the cause of action survives, as held by the Supreme Court in ***Central Bank of India v. Prabha Jain***<sup>9</sup> and ***Vinod Infra Developers Ltd. v. Mahaveer Lunia***.<sup>10</sup> The core allegations joining a competitor while continuing as director/promoter, misusing confidential information, interfering with business operations and breaching employment obligations constitute civil causes of action that lie outside the scope of Section 430.

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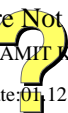
<sup>8</sup>2018 SCC OnLine Del 12410

<sup>9</sup> (2025) 4 SCC 38

<sup>10</sup> 2025 SCC OnLine SC 1208

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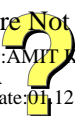


6.7 The plaintiffs further submit that the threshold for rejection under Order VII Rule 11 of CPC is extremely high. A plaint may be rejected only if it discloses no cause of action or is barred by law on its face. The present plaint contains detailed pleadings, supported by documents, establishing multiple intertwined causes of action requiring trial. The objections raised involve mixed questions of fact and law, which cannot be determined at the threshold.

### Analysis

7. Before proceeding to the analysis of the facts of the case, it is important to briefly discuss the scope of Order VII Rule 11 of CPC. Although, the principles governing the scope of an application of this nature have been a subject matter of various pronouncements, it is imperative to note that at this stage, while deciding an application under Order VII Rule 11 CPC, the Court is required to examine only the averments made in the plaint. The scope of such an application is limited solely to determine whether, on the basis of the plaint as it stands, and on a comprehensive reading thereof a cause of action is disclosed or if the suit is barred by any law. No reference can be made to the written statement or any defence raised, as the assessment must be confined strictly to the pleadings of the plaintiffs.

8. This Court in *Meena Vohra v. Master Hosts (P) Ltd.*<sup>11</sup> discussed the said position, emphasizing that the objective of Order VII Rule 11 CPC is to prevent irresponsible or frivolous lawsuits from proceeding. The Court observed that this provision offers an independent remedy to the defendant





to question the maintainability of a suit, irrespective of the merits of the case. Relying on the Supreme Court's reasoning in *Sopan Sukhdeo Sable v. Assistant Charity Commissioner*,<sup>12</sup> it reiterated that when a suit appears to be an abuse of the court's process, the court is duty-bound to reject the plaint under Order VII Rule 11. Importantly, the Court noted that the rule imposes an obligation on the judiciary to act whenever the infirmities listed in Rule 11 are present, and such rejection does not bar the plaintiff from filing a fresh plaint under Order VII Rule 13.

9. Furthermore, in *Hardesh Ores (P) Ltd. v. Hede & Co*<sup>13</sup> the Supreme Court has held that it is not permissible to cull out a sentence or a passage and to read it in isolation. It is the substance and not merely the form, which has to be looked into. The plaint has to be construed as it stands, without addition or subtraction of words. If the allegations in the plaint *prima facie* show a cause of action, the Court cannot embark upon an enquiry whether the allegations are true in fact. Therefore, a roving inquiry akin to appreciation of evidence is not contemplated at the stage of Order VII Rule 11 of the CPC.

### **Employment Contracts Do Not Constitute Commercial Disputes**

10. Furthermore, before delving into the controversy at hand, let us first examine the scope of Section 2(1)(c) of the CC Act.

11. The definition of "commercial dispute" is undoubtedly inclusive and expansive, covering mercantile relationships arising from contracts or

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<sup>11</sup> 2025 SCC OnLine Del 1758

<sup>12</sup> (2004) 3 SCC 137

<sup>13</sup> (2007) 5 SCC 614



otherwise, joint venture agreements, business cooperation arrangements, and a long list of specified relationships.

12. Section 2(1)(c) of the CC Act, defines the expression “commercial dispute” comprehensively. Section 2(1)(c) of the CC Act, *inter alia*, reads as under:-

*“2. Definitions.—(1) In this Act, unless the context otherwise requires, -*

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*.....*

*(c)—commercial dispute means a dispute arising out of—*

*(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;*

*(ii) export or import of merchandise or services;*

*(iii) issues relating to admiralty and maritime law;*

*(iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;*

*(v) carriage of goods;*

*(vi) construction and infrastructure contracts, including tenders;*

*(vii) agreements relating to immovable property used exclusively in trade or commerce;*

*(viii) franchising agreements;*

*(ix) distribution and licensing agreements;*

*(x) management and consultancy agreements;*

*(xi) joint venture agreements;*

*(xii) shareholders agreements;*

*(xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;*

*(xiv) mercantile agency and mercantile usage;*

*(xv) partnership agreements; (xvi) technology development agreements;*

*(xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits; (xviii) agreements for sale of goods or provision of services; (xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;*

*(xx) insurance and re-insurance;*

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(xxi) contracts of agency relating to any of the above; and (xxii) such other commercial disputes as may be notified by the Central Government.

*Explanation.*—A commercial dispute shall not cease to be a commercial dispute merely because—

(a) it also involves action for recovery of immovable property or for realisation of monies out of immovable property given as security or involves any other relief pertaining to immovable property;

(b) one of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions.”

13. This Court in **Meena Vohra**, undertook a detailed and nuanced reading of Section 2(1)(c) of the CC Act. While the text of Section 2(1)(c) is inclusive and wide, the Court emphasized that the category of “commercial disputes” is not without boundaries. It covers matters arising out of commercial documents, joint ventures, business cooperation, mercantile transactions, trade, and financial arrangements. The Court applied the principle of *ejusdem generis*, holding that the catch-all phrase “all other forms of business cooperation” must be interpreted in line with the preceding words, all of which relate to business, commerce, trade, industry, or commercial cooperation. Therefore, the expression does not expand to include every agreement touching upon a company or its internal governance; it must relate to a relationship that is primarily commercial in character.

14. However, even though the statutory definition is expansive, its breadth is not unrestrained. The structure of Section 2(1)(c) of CC Act reveals that every category listed shares a common commercial thread each pertains to transactions involving trade, business operations, commercial obligations, or mercantile dealings. Thus, when interpreting whether a particular dispute fits within the provision, the inquiry must focus on

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whether the relationship at issue arises from a commercial or business-oriented engagement, rather than merely from the fact that one of the parties is a commercial entity. This distinction becomes particularly significant when examining whether contracts rooted in personal service, such as employment agreements, possess the commercial character necessary to be brought within the ambit of a “commercial dispute.”

15. In this backdrop, the mere presence of ancillary business-related clauses such as confidentiality, intellectual property assignment, or non-compete obligations does not metamorphose an employment contract, which is fundamentally a contract of personal service, into a commercial arrangement. This position has been affirmed by various High Courts. In *Ekanek Networks Pvt. Ltd.*, this Court considered whether breaches of an employment agreement containing detailed terms on remuneration, non-compete, non-solicitation, confidentiality, IP assignment, and termination could be treated as a “commercial dispute” under Section 2(1)(c)(xviii) of the CC Act. The Court held that the expression “provision of services” in the said clause must be accorded a strictly commercial connotation, and cannot be conflated with a contract of service, which is inherently a personal service relationship governed by the employer’s control, supervision, and disciplinary authority. Relying on *Bar of Indian Lawyers v. D.K. Gandhi*<sup>14</sup> and *Ambalal Sarabhai Enterprises Ltd. v. K.S. Infraspace LLP*<sup>15</sup>, the Court underscored that the Commercial Courts Act is intended to streamline adjudication of genuine mercantile and commercial disputes, and that

<sup>14</sup> 2019 SCC Online SC 2365

<sup>15</sup> (2020) 15 SCC 585



importing ordinary employer–employee disputes into this framework would subvert the very objective of the statute.

16. Moreover, in *Elior India Food Services LLP*, the Karnataka High Court emphatically rejected the attempt to give an employment contract the colour of a commercial dispute. The Court held that a claim for incentives arising from an agreement that was merely an offshoot of the Employment Agreement remained, in substance, a money claim rooted in an employer–employee relationship. The long-term incentive plan, though containing detailed terms and performance-linked conditions, was inseparably grounded in the underlying contract of employment. Crucially, the Court noted that Section 2(1)(c)(xviii) of the CC Act, covering agreements for sale of goods or provision of services cannot be stretched to include pure contracts of personal service, which are categorically distinct from commercial agreements. It reiterated that an employment contract “cannot be given a colour of a commercial dispute by dressing it to be a provision of services,” and warned that allowing such re-characterisation would open the floodgates, clogging commercial courts and undermining the very purpose for which they were constituted. This reasoning squarely negates attempts to artificially situate employment disputes within commercial court jurisdiction.

17. A similar attempt to recharacterize an employment-related arrangement as a commercial dispute was expressly rejected by this Court in *Rachit Malhotra*. In that case, a party sought to portray an ESOP Scheme as akin to a shareholders’ agreement so as to invoke Section 2(1)(c)(xii) of the CC Act. The Court unequivocally refused this contention, holding that an





ESOP, even though it may incidentally relate to shareholding, remains fundamentally an incident of employment and cannot be elevated to the status of a shareholders' agreement for the purpose of attracting commercial jurisdiction. The Court emphasized that such artificial recasting of essentially employment-linked rights into the mould of commercial disputes would impermissibly dilute the statutory scheme of the CC Act and distort the jurisdictional boundaries carefully drawn by the legislature. This reasoning further reinforces the principle that employment-derived benefits whether styled as ESOPs, incentives, or long-term plans cannot be treated as commercial agreements within the meaning of Section 2(1)(c).

18. Furthermore, taking the analysis a step further the foreign jurisprudence also reflects a similar approach in delineating the scope of *commercial* matters. The Alberta Court in ***Borrowski v. Heinrich Fiedler Perforiertechnik GmbH***<sup>16</sup> held categorically that an employment contract is not a commercial legal relationship, even if the employer is engaged in international trade. The House of Lords in ***Johnson v. Unisys Ltd***<sup>17</sup>. reiterated that employment contracts create personal service obligations that are not commercial agreements. Similarly, the Ontario Supreme Court in ***Ross v. Christian & Timbers Inc.***<sup>18</sup> held that labour and employment contracts are not intended to fall within the scope of commercial agreements.

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<sup>16</sup> 1994 CanLII 9026 (AB QB)

<sup>17</sup> 2001 2 All ER 801

<sup>18</sup> (2022) O.J. No. 1609

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19. Thus, any dispute relating to an employment agreement cannot be treated to be a commercial dispute within the purview of Section 2(1)(c) of the CC Act.

20. Turning to the facts of the present dispute, the core allegations clearly arise out of the Employment Agreement dated 08.09.2016 and the defendant's statutory fiduciary duties as a director under Section 166 of the Companies Act, 2013. The allegations include unauthorized self-approved salary hikes, failure to ensure statutory secretarial compliances, misuse of confidential information post-resignation, joining a direct competitor (Icogz), solicitation of clients, and attempts to disrupt corporate meetings through frivolous and malicious requisitions. Every one of these allegations flows from personal service obligations and director's fiduciary duties not from any commercial contract. The alleged misconduct, even when it touches upon corporate governance, remains inextricably anchored in the defendant's role as an employee and Managing Director.

21. The defendant argues that the Employment Agreement cannot be isolated from the SSSA, because the SSSA contemplated the execution of the employment agreement. However, judicial reasoning rejects this conflation. As *Ekanek* instruct, the mere fact that a commercial agreement refers to or envisages an employment arrangement does **not** convert an employment dispute into a commercial dispute. In fact, the plaintiff has demonstrated that the SSSA has since been terminated and the investor has exited, leaving the Employment Agreement as the only operative arrangement. The agreement itself is between the company and the executive not between the investor and the executive and, therefore, cannot





be subsumed under the commercial umbrella of the SSSA. Even if the investor signed as a confirming party, that does not alter the fundamental nature of the relationship, which remains one of personal service.

22. Moreover, Clause 2 of the Employment Agreement has a direct bearing on the present case, as it sets out the duties and functions of the employee which are alleged to have been breached by the defendant. The clause is reproduced below for reference:

***“2 Duties and functions***

*2.1 Upon the commencement of the Employment Period, the Executive shall occupy (or continue to occupy) the position and perform the duties of of the Company. The Executive shall fulfil such general duties and responsibilities as are consistent with such position and as are assigned to him/ her from time to time by the Board.*

*2.2 The Executive shall devote all of his/ her business time, attention and energies to the Business of the Company, and shall assume and perform such further responsibilities and duties as may be assigned or directed by the Board.*

*2.3 The Executive agrees that he/ she will, at all times, while performing services for the Company, devote his/ her reasonable best efforts, skill and ability and shall perform his/ her responsibilities as an employee and executive of the Company in a competent and professional manner.*

*2.4 The Executive further agrees that during the Employment Period, he/ she shall not render commercial or professional services of whatsoever nature to any Person or organization, whether or not for pecuniary gain, without the prior written consent of the Company, and that he/ she will not directly or indirectly engage in any Business that is competitive in any manner with the Business of the Company.*

*2.5 The Executive agrees to abide by the rules, regulations, personnel policies and other policies of the Company and any change thereof, which may be adopted by the Company from time to time.*

*2.6 The Executive agrees that he/ she shall not participate in any activity that constitutes an actual or potential conflict of interest with*





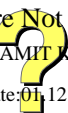
*his/ her employment with the Company at any time during the Employment Period.”*

23. It is evident that the arrangement lacks any commercial element. It remains, in essence, a private agreement between the parties and cannot be stretched to give it the character of a shareholders’ agreement.

24. The defendant also relies on the “inseparable agreements” principle from the *Elior* line of cases. But that principle applies only when the enforcement of one agreement necessarily requires enforcement of the other. Here, none of the reliefs or allegations require a determination of rights under the SSSA. The suit neither invokes nor seeks to enforce the SSSA. The fiduciary breaches, misuse of confidential information, and employment-related wrongs can be adjudicated entirely within the framework of the Employment Agreement. This is precisely the kind of factual separation that courts in *Ekanek* and *Sanjay Kumar* treated as decisive in holding that the civil suit is maintainable.

25. The decisions relied upon by the defendants are inapplicable to the present matter, as they do not pertain solely to the Employment Agreement. In *Baskar Naidu*, the dispute involved a standalone Shareholder Agreement without any overlay of personal service obligations, rendering it a "pure" commercial matter under CC Act Section 2(1)(c)(xii) exclusively for Commercial Courts.

26. Similarly, the defendants’ reliance on *Suraj Prakash* is misplaced. Court in the above mentioned case bars civil court jurisdiction only when the dispute relates to a *pure* oppression-and-mismanagement. This suit is different. It is mainly about personal employment and alleged fiduciary





breaches by the MD/non-executive director, not about company-level oppression. As clarified in *Ekanek Networks*, such claims can be heard by civil courts.

27. In light of the above discussion, the defendants' contention that the suit is barred under Section 430 of the Companies Act is wholly misconceived. The gravamen of the dispute, as discussed above, arises out of the Employment Agreement and the defendant's personal service obligations, coupled with his fiduciary duties under Section 166 of the Companies Act. Disputes of this nature lie outside the exclusive domain of the NCLT, which has no jurisdiction to adjudicate breaches of employment contracts, enforce personal service obligations, or grant consequential reliefs such as injunctions, damages, and confidentiality-related remedies. Hence, the civil court's jurisdiction remains intact. Accordingly, the bar under Section 430 has no application to the present suit.

28. Even assuming *arguendo* that any part of the defendants' objection under Section 430 has merit, the plaint cannot be rejected in part under Order VII Rule 11 of the CPC. It is settled law that where multiple, distinct causes of action exist and even a single relief survives scrutiny, the plaint must proceed to trial in its entirety. The above proposition of law is reiterated by the Supreme Court in its recent decision in *Central Bank of India v. Prabha Jain*, which held as follows:

*"23. Even if we would have been persuaded to take the view that the third relief is barred by Section 17(3) of the SARFAESI Act, still the plaint must survive because there cannot be a partial rejection of the plaint under Order 7 Rule 11 CPC. Hence, even if one relief survives, the plaint cannot be rejected under Order 7 Rule 11 CPC. In the case on hand, the first and second reliefs as prayed for are clearly not barred*





*by Section 34 of the SARFAESI Act and are within the civil court's jurisdiction. Hence, the plaint cannot be rejected under Order 7 Rule 11CPC. 24.If the civil court is of the view that one relief (say relief A) is not barred by law but is of the view that relief B is barred by law, the civil court must not make any observations to the effect that relief B is barred by law and must leave that issue undecided in an Order 7 Rule 11 application. This is because if the civil court cannot reject a plaint partially, then by the same logic, it ought not to make any adverse observations against relief B."*

29. In the present case, the plaintiffs have sought several reliefs such as declarations of breach of non-compete and non-solicitation obligations, injunctions restraining competitive activity and misuse of confidential information, damages, and ancillary reliefs which fall squarely within the jurisdiction of a civil court and lie wholly outside the competence of the NCLT. Therefore, at this preliminary stage, the plaint cannot be dissected or rejected in part, and the suit must be permitted to proceed for adjudication on all surviving issues.

### **Conclusion**

30. Therefore, the suit is fundamentally civil in nature, centered on employment and related obligations, and is maintainable as a regular civil suit.

31. In any case at this stage the Court may not require to consider the above aspects in great detail and hence the liberty is granted to the defendant to raise all the issues during the course of trial.

32. Consequently, the defendant's application under Order VII Rule 11 lacks merit and is liable to be dismissed.

33. Accordingly, the application is dismissed.





34. Needless to state any observations made herein are only for the purposes of deciding the present application and would have no bearing on the final adjudication of the suit.

**CS(OS) 896/2024 and CC 14/2025, I.A. 44826/2024, I.A. 44827/2024, I.A. 5125/2025, I.A. 5126/2025, I.A. 5168/2025, I.A. 11584/2025, I.A. 18999/2025, I.A. 19462/2025, I.A. 19879/2025**

35. List on 09.03.2026, before the Joint Registrar for taking up further necessary steps in accordance with the extant rules.

36. Once the same are carried out, list before this Court on the date to be given by the Joint registrar.

**(PURUSHAINDRA KUMAR KAURAV)  
JUDGE**

**DECEMBER 01, 2025**  
aks.