

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

MP No. 1339 of 2026

*(GOURAV PAWAR Vs M/S PAWAR EXCLUSIVE THROUGH PROPRIETOR PIYSUH PAWAR AND OTHERS )*

**Dated : 23-03-2026**

Shri Ankur Tiwari, learned counsel through VC alongwith Ms.Manish Ahuja, learned counsel for the petitioner.

Shri Bhaskar Agrawal, learned counsel for the respondent nos.1 to 4.

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The present petition is filed under Article 227 of the Constitution of India challenging the order dated 23.02.2026 passed by Commercial Court (District Judge Level), Indore (M.P.), whereby the application filed by the petitioner under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, 1908 for rejection of the plaint has been dismissed; and the objections raised by the petitioner regarding illegal filing of additional documents have also been dismissed/rejected.

2. Learned counsel for the respondent raises a preliminary objection that the petition under Article 227 of the Constitution of India is not maintainable in view of the provisions of sections 8 and 13 of the Commercial Courts Act, 2015.

Section 13 reads as under :-

"13. Appeals from decrees of Commercial Courts and Commercial Divisions.—(1) 1 [Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.

(1A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).]

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the

provisions of this Act."

Section 8 reads as under :-

"8. Bar against revision application or petition against an interlocutory order. —Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court.

3. He argued that in view of the provisions of section 13(1)(A), the remedy for any person aggrieved by a judgment or order of a Commercial Court at the level of District Judge exercising original jurisdiction, is to file an appeal before the Commercial Appeal Division of the High Court, however, he further argued that as per proviso to section 13(1)(A), the appeal lies only against the order passed by the Commercial Court which are specifically enumerated under Order 43 of the CPC and section 37 of the Arbitration and Conciliation Act. The impugned order rejecting the application under Order 7 Rule 11 of the CPC is neither an order enumerated under Order 43 of the CPC and nor an order under section 37 of the Arbitration and Conciliation Act. Hence, no remedy of appeal is available to the petitioner under section 13(1)(A) of the Commercial Court Act, 2015.

4. Learned counsel for the respondent vehemently argued that the remedy of revision against the order passed by the Commercial Court rejecting the application under Order 7 Rule 11 of CPC is not available in view of the provision of section 8 of the Commercial Courts Act. Even the petition under Article 227 of the Constitution of India is not maintainable. He submits that only remedy available for the petitioner against the said order is to file an appeal after the final decree is passed by the Commercial Court. In support of his submission, he placed reliance on the judgment passed in the case of *Ambalal Sarabhai Enterprises Ltd. Vs. K.S. Infraspace LLP and Anot reported in (2020) 15 SCC 585* and *P. Suresh Vs. D.Kalaivani and Ors reported in 2026 SCC Online SC 143*. He referred para

no.36 of the judgment in the case of Ambalal (supra) which reads as under:-

"A perusal of the Statement of Objects and Reasons of the Commercial Courts Act, 2015 and the various amendments to Civil Procedure Code and insertion of new rules to the Code applicable to suits of commercial disputes show that it has been enacted for the purpose of providing an early disposal of high value commercial disputes. A purposive interpretation of the Objects and Reasons and various amendments to Civil Procedure Code leaves no room for doubt that the provisions of the Act require to be strictly construed. If the provisions are given a liberal interpretation, the object behind constitution of Commercial Division of Courts, viz. putting the matter on fast track and speedy resolution of commercial disputes, will be defeated. If we take a closer look at the Statement of Objects and Reasons, words such as 'early' and 'speedy' have been incorporated and reiterated. The object shall be fulfilled only if the provisions of the Act are interpreted in a narrow sense and not hampered by the usual procedural delays plaguing our traditional legal system."

5. The relevant para no.7.1 and 9 in the case of P. Suresh (supra) is reproduced as under :-

"7.1. It is to be conceived as one of the prohibited area for exercising Article 227 powers where, in respect of the grievance for which party has remedy in law, these powers are surely to be invoked. The principle is therefore to be emphasized that the exercise of supervisory jurisdiction under Article 227 of the Constitution has to be treated as an exceptional resort when an alternative efficacious civil remedy by way of appeal or revision or any other, like Order VII Rule 11, CPC in the present case, is available to the party for the redressal of the grievance.

9. From the aforesaid discussion, it would logically follow that the High Court would not only discourage but desist from exercising jurisdiction under Article 227 of the Constitution in respect of a challenge for which a separate, distinct, and specific remedy or statutory provision is available under the statute concerned. Availability of an alternative civil remedy and/or under the CPC shall be treated as complete and near total bar on the High Court to venture to invoke and exercise its power available under Article 227 of the Constitution, except where exercise of supervisory jurisdiction becomes absolutely necessary."

6 . *Per contra*, learned counsel for the petitioner submitted that the petitioner under Article 227 of the Constitution of India is maintainable and in support of his submission, he placed reliance on the judgment passed by the coordinate bench at Indore in the case of *Pushpshree Hospitals and Research Centre and Anot. Vs. Kothari Chemist and Anor passed in WP No.3837/2022* decided on 04.01.2024.

7. We have heard learned counsel for the parties and the question arises for consideration are as follows:-

- (i) Whether the remedy of appeal under order 43 of CPC or revision under section 115 of CPC is available against the order rejecting application under Order 7 Rule 11 of CPC by a Commercial Court in view of section 8 of the Commercial Courts Act.

(ii) In case if the appeal or revision is not maintainable, then whether the remedy under Article 227 of the Constitution of India is available against the order rejecting the application under Order 7 Rule 11 of CPC by the Commercial Court.

8. As discussed in para 3, in view of proviso to section 13(1)(A), the appeal against an order rejecting application under Order 7 Rule 11 of CPC by the Commercial Court is not maintainable.

9. In regard to this question of maintainability of a revision against such order or remedy under Article 227 of the Constitution of India, it would be apposite to refer certain other provisions of the Commercial Court Act and also the Code of Civil Procedure. The Chapter VI of the Commercial Courts Act which provides for amendment to the Code of Civil Procedure, 1908 in its application to the commercial disputes. The Chapter VI and provision of section 115 of CPC reads as under :-

#### Chapter VI

16. Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes.—(1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule. (2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, in the trial of a suit in respect of a commercial dispute of a Specified Value. (3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908 (5 of 1908), by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail.

**Section 115 -.** Revision.—4 [(1)] The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears—

- (a) to have exercised a jurisdiction not vested in it by law, or
- (b) to have failed to exercise a jurisdiction so vested, or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the High Court may make such order in the case as it thinks fit:

[Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision would have finally disposed of the suit or other proceedings.]

[(2)] The High Court shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.

[(3)] A revision shall not operate as a stay of suit or other proceeding before the Court

except where such suit or other proceeding is stayed by the High Court.]"

10. From the aforesaid provisions, it is clear that the revision petition filed under section 115 of the CPC is not maintainable against the interlocutory order. The revisional jurisdiction under section 115 is to be exercised to correct the jurisdictional errors only. However, the sub-section 1 to section 115 provides that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision would have finally disposed of the suit or other proceedings. Thus, it is clear that if an interlocutory order is of such nature that if the prayer is allowed, it would have finally disposed of the suit or proceedings like in the present case, if the application under Order 7 Rule 11 CPC is allowed, the suit will be dismissed by rejecting the plaint then an appeal would be maintainable and if the application is rejected the remedy of revision would be available. However, the aforesaid legal position under section 115 has to be considered in the context of the provisions of Commercial Courts Act which is a special Act and the provisions of CPC as per the Chapter VI applies for certain conditions. As per sub-section 2 of section 16, the Commercial Courts shall follow the provisions of CPC as amended by this act in the trial of suit in respect of the commercial dispute of a specified value. Sub-section 3 of Section 16 engrafts where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908 (hereinafter referred as CPC), by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908, as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail. Thus, so far the applicability of CPC to the Commercial Court is concerned, the same is subject to the provision of the Commercial Courts Act.

11. The judgment of the co-ordinate bench in the case of Pushpshree Hospitals (supra) wherein, in para 8 it has been held that the petition under Article 227 of the Constitution of India is concerned, it is settled that whenever the trial court rejects the application under Order 7 Rule 11 of CPC the only remedy is of filing civil revision under section 115 of the CPC. However, the said judgment is *per incuriam* as it has not considered the provision of section 8 of the Commercial Courts Act.

12. The language of section 8 of the Commercial Courts Act is distinct from section 115 of the CPC. In the language of section 8 of Commercial Courts Act, there is a specific bar against the revision application or petition against the interlocutory order. It provides that notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court. Considering the plain language of section 8 and the object of the Act, we are of the considered view that the revision against the order passed under Order 7 Rule 11 of CPC passed by the Commercial Court would not be maintainable in view of section 8 of Commercial Courts Act.

13. Now the question which is to be answered in this case is whether the Miscellaneous Petition under Article 227 of the Constitution of India is maintainable against the order passed by the Commercial Court rejecting the application under Order 7 Rule 11 of CPC, when there is no remedy of appeal and revision against the said order.

14. We have already held that in a case where the order is passed by the court other than the Commercial Court, the remedy of revision would lie against

the order rejecting the application under Order 7 Rule 11 of CPC in view of the proviso to sub-section 1 of section 115 of CPC, however, the revision would not be maintainable against the order either allowing the application or rejecting the application under Order 7 Rule 11 of CPC by the Commercial Court in view of section 8 of Commercial Court Act, therefore, the question is that whether under these circumstances, a party before the Commercial Court can be left with no remedy and has to wait till the passing of the final order/decree. Therefore, it is apt to consider the provisions of Article 227 of the Constitution of India. The powers under Article 227 of the Constitution of India is supervisory powers to the High Court against the order of the Courts, Tribunals etc. The Article 227 of the Constitution of India is reproduced as under :-

"227. Power of superintendence over all courts by the High Court.—

[(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction.]

(2) Without prejudice to the generality of the foregoing provision, the High Court may—

(a) call for returns from such courts;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein: Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces."

15. The Article 227 of the Constitution of India confers on High Court the power of superintendence over all Courts and Tribunals within its territorial jurisdiction except Military Tribunal. The remedy under Article 227 of the Constitution of India is a discretionary remedy and such discretion is ordinarily not exercised when an alternative remedy is available under the CPC. In, *Surya Dev Rai supra* as well as in *Punjab National Bank Vs. O.C. Krishnan (2001) 6*

*SCC 569, Om Prakash Saini Vs. DCM Limited (2010) 11 SCC 622, Major General Shri Kant Sharma supra, Hameed Kunju Vs. Nazim (2017) 8 SCC 611 and Virudhunagar Hindu Nadargal Dharma Paribalana Sabai Vs. Tuticorin Educational Society (2019) 9 SCC 538*, it has been held that Article 227 cannot be invoked where the remedy of appeal or revision are available. Since it has already been held that against the order rejecting the application under Order 7 Rule 11 of CPC, the remedy of revision is not available but the supervisory power conferred to the High Court under Article 227 is subject to well known / well settled rules of self-discipline and practice. Such jurisdiction / power is not to be exercised in derogation of statutory provisions. In *Koyilerian Janaki Vs. Rent Controller (Munsif), Cannanore (2000) 9 SCC 406*, it was held that it was not appropriate for the High Court to have interfered with the order in exercise of powers under Article 227 when the proceedings arose under a special Act which did not provide for second appeal or revision to the High Court; that the purpose behind not providing such remedy was to give finality to the order passed under the Act. Similarly, in *Niyas Ahmed Khan Vs. Mahmood Rahmat Ullah Khan (2008) 7 SCC 539*, it was held that the power of superintendence under Article 227 cannot be exercised in a manner ignoring or violating the specific provisions of the statute and that the High Court, while purporting to exercise powers under Article 227 to keep inferior Courts and Tribunals within the limits of their authority, should not itself cross the limits of its authority. To the same effect is *Sunita Rani Vs. Shri Chand (2009) 10 SCC 628*. In *A. Venkatasubbiah Naidu Vs. S. Challappan (2000) 7 SCC 695* it was held that though no hurdle could be put against the exercise of the constitutional powers of the High Court, it was a well recognized principle which gained judicial recognition, that the High Court should direct the party to avail himself of statutory remedies, before resorts to a constitutional remedy. The

petition under Article 227 was held to be not maintainable owing to the availability of the remedy of appeal under the CPC. In *Surya Dev Rai supra* also it was held that to safeguard against a mere appellate or revisional jurisdiction being exercised in the garb of exercise of supervisory jurisdiction under Article 227, the Courts have devised self imposed rules of discipline on their power; supervisory jurisdiction may be refused to be exercised when an alternative efficacious remedy by way of appeal or revision is available to the person aggrieved. It was held that the High Court should have regard to legislative policy formulated on experience and expressed by enactments where legislature in exercise of its wisdom has deliberately chosen certain orders and proceedings to be kept away from exercise of appellate and revisional jurisdiction in the hope of accelerating the conclusion of proceedings and avoiding delay and procrastination which is occasioned by subjecting every order at every stage of proceeding to judicial review by way of appeal or revision. To the same effect is *Ajay Bansal Vs. Anup Mehta (2007) 2 SCC 275*. The Constitutional Courts are conferred with the power of judicial review under Article 226 of the Constitution of India and power of superintendence under Article 227 of the Constitution of India.

16. The petition under Article 227 of the Constitution of India is maintainable against the order rejecting the application under Order 7 Rule 11 of CPC by a Commercial Court. However, the scope of interference would be on limited grounds as held by the Apex Court in the case of *Shalini Shyam Shetty v/s Rajendra Shankar Patil reported in (2010) 8 SCC 329*].

17. In the case *Ambalal (supra)* the court was considering the object of the Commercial Courts Act and the expression commercial dispute and in that context held that the strict construction to the provision of Commercial Courts Act is required. The said case was not considered on the maintainability of a petition

under Article 227 of the Constitution of India against the order passed by the Commercial Court.

18. In the case of P.Suresh (supra) the court held that the powers of Article 227 of the Constitution of India are supervisory in nature and the said power has to be exercised as exceptional resort when alternative and efficacious civil remedy by way of appeal or revision or any order like Order 7 Rule 11 of CPC is not available. In this regard, a reference be made to the para 7.1. However, in the said case, the impact of section 8 of the Commercial Courts Act was not considered. The petitioner cannot left remediless against the order rejecting the application under Order 7 Rule 11 of CPC and to wait till the final decree is passed. If the order is perverse and suffers from jurisdictional error, the High Court can exercise its supervisory powers under Article 227 of the Constitution of India.

19. In view of the aforesaid, it is held that the present petition is maintainable under Article 227 of the Constitution of India.

20. List the matter on admission on 01.04.2026.

**(VIJAY KUMAR SHUKLA)**  
**JUDGE**

**(ALOK AWASTHI)**  
**JUDGE**

Sourabh