



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE EASWARAN S.

WEDNESDAY, THE 29TH DAY OF JULY 2026 / 7TH SRAVANA, 1948

OP(C) NO. 3011 OF 2025

AGAINST THE ORDER/JUDGMENT DATED 05.11.2025 IN IA
10/2024 IN COMMERCIAL SUIT NO.8 OF 2023 OF ASSISTANT
SESSIONS COURT/SUB COURT/COMMERCIAL COURT, DEVIKULAM

PETITIONER/S:

SHANAVAS O.M
AGED 43 YEARS
OLICKAL HOUSE, FRIENDS HYPER MARKET, C/O SANU
VARGHESE, MANGALATH HOUSE, RAJAKUMARY KARA,
RAJAKUMARY P.O., RAJAKUMARY VILLAGE,
UDUMBANCHOLA TALUK, IDUKKI, PIN - 685619

BY ADV SRI.LATHEESH SEBASTIAN

RESPONDENT/S:

JOY PAUL
AGED 49 YEARS
KEERAMKUNNEL HOUSE, KULAPPARACHAL P.O.,
KULAPPARACHAL KARA, RAJAKUMARY P.O., RAJAKUMARY
VILLAGE, UDUMBANCHOLA TALUK, IDUKKI, PIN -
685619

BY ADVS.
SRI.MANU VYASAN PETER
SRI.P.B.SUBRAMANYAN
SRI.SABU GEORGE



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THIS OP (CIVIL) HAVING COME UP FOR ADMISSION ON
29.07.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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EASWARAN S., J.

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Dated this the 29th day of July, 2026

JUDGMENT

The defendant in a commercial suit raised a question regarding the maintainability of the suit by filing I.A. No. 10 of 2024 in C.S. No. 8 of 2023, contending that the suit had to be tried not as a commercial suit but as a normal civil suit. The said plea was rejected and hence the Original Petition.

2. The brief facts necessary for the disposal of the Original Petition is as follows:-

The respondent, one of the members of a joint venture agreement with the petitioner wanted to exit out of the joint venture agreement. As a condition for exiting the



joint venture agreement, the parties entered into an agreement on 10.09.2021, based on which, it was agreed that the plaintiff would be paid an amount of Rupees Twenty Lakh by the defendant. Based on the agreement a cheque was drawn in favour of the plaintiff on 10.05.2023. When the cheque was sent for collection, it was returned with a dishonour memo stating that “funds insufficient”. Hence the plaintiff filed CS No.8 of 2023 before the Sub Court, Devikulam.

3. The defendant, though entered appearance, failed to file a written statement within the mandatory period of 90 days. Even at the outer limit of 120 days, the defendant could not file the written statement. Thereafter, the defendant filed I.A. No. 10 of 2024, raising an objection regarding the maintainability of the suit, contending that the dispute in the present suit does not



arise out of a commercial transaction and, therefore, does not fall within the definition of a "commercial dispute" under Section 2(1)(c)(xi) of the Commercial Courts Act, 2015 ('the Act' for short). This application was objected to by the defendant and by order dated 05.11.2025, the Commercial Court overruled the objection held that the suit is maintainable. Challenging the said order, the present Original Petition is filed.

4. Heard Sri. Latheesh Sebastian, the learned counsel for the petitioner and Sri. Manu Vyas Peter, the learned counsel for the respondent.

5. The learned counsel for the petitioner contended that the definition of "commercial dispute" as provided under Section 2(1)(c) of the Act deals with the specification of the nature of disputes that are liable to be treated as commercial disputes. According to the learned



counsel, the present dispute would not arise out of the Joint Venture Agreement, since the plaintiff had already exited from the Joint Venture Agreement and had agreed to receive a sum of Rupees Twenty Lakh. If the cheque issued by the petitioner was dishonoured, it can only be tried as an ordinary civil suit and not as a commercial suit. It is thus pointed out that since there is no dispute between the parties arising out of the joint venture agreement, the court below erred egregiously in dismissing the application.

6. Per contra, Sri. Manu Vyas Peter, the learned counsel appearing for the respondent relying on the decision of the Single Bench of the Delhi High Court in ***Jatin Jain and others v. Anuj Jain and others*** [2024 SCC Online Del 2076] contended that the scope of



definition of commercial dispute is wide enough to cover all such disputes arising out of the performance of a joint venture agreement. According to the learned counsel, even if the claim is for damages or for an obligation arising out of the implementation of a Joint Venture Agreement, the remedy of the plaintiff is to file a commercial suit. The intent and purpose of the Act is to expedite the resolution of disputes relating to commercial transactions and, therefore, it is contended that the Court was justified in rejecting the application filed by the defendant.

7. I have considered the rival submissions raised across the Bar and perused the impugned order.

8. The question to be considered is whether a defendant, who fails to file a written statement within the mandatory period prescribed under the proviso to Order



VIII Rule 1 of the CPC, in a commercial suit can be permitted to raise the question of maintainability of the suit on the ground that the dispute does not fall within the ambit of a "commercial dispute" under Section 2(1)(c) of the Act. The contention now raised could perhaps have been appreciated by this Court had a preliminary objection regarding the maintainability of the suit been raised in the written statement, as sought to be sustained by the defendant. Therefore, this Court is of the view that the failure of the defendant to deliver his defence is certainly an aspect to be considered when an application is filed for raising the preliminary question of maintainability.

9. That apart, what is projected before this Court is that once the plaintiff has exited from the joint venture agreement, the dispute can no longer be considered as



one falling within the purview of a dispute arising out of the Joint Venture Agreement. This Court is unable to subscribe to the above said contention.

10. A reading of Section 2(1)(c)(xi) shows that any dispute arising out of a Joint Venture Agreement is amenable to being brought within the ambit of a commercial dispute under the provisions of the Commercial Courts Act. To hold otherwise would completely defeat the purpose for which the enactment was promulgated by Parliament. In this context, this Court must take note of the judgment of the Delhi High Court in ***T.V. Today Network Limited v. News Laundry Media Private Ltd.*** [2022 SCC OnLine Del 2233], wherein the Delhi High Court held as follows:-

“43. The words used in a statute are to be read and understood in their ordinary meaning. [Section 2\(1\)](#)



(c) does comprise of a list. But, it would be incorrect to hold that it sets out an exhaustive list of disputes that qualify as commercial disputes. If that was the intent, the words used would simply have been - “the following are commercial disputes”. Instead, the words used are “arising out of”. That is, the source of the dispute must be one of the clauses listed in [Section 2\(1\)\(c\)](#) of the Act. The clauses do not limit the contours of the dispute that may arise. What would be the actual dispute in respect of ordinary transactions of merchants, or export and import of merchandise, or carriage of goods, or construction and infrastructure, and so on and so forth, would remain what would arise in ordinary course between two parties in the course of these engagements and activities. Thus, such a dispute could be a breach of contract or the enforcement of terms of contract entailing recovery not only of the price, but possibly damages; disputes may relate to mutual rights or obligations under Joint Venture Agreements or rights and obligations in respect of Consultancy Agreements; disputes arising out of technology development agreements could entail rights to the sharing of the know-how and/or confidentiality, and so on and so forth. In short, if the disputes were relatable to any of the



clauses, the disputes would be clothed with the additional adjective of being “commercial” in nature. The classification has been given to make available a special procedure for trial and speedy disposal of such disputes that impact economic activity. “

11. This decision was followed by the Single Bench of the Delhi High Court in ***Jatin Jain and others v. Anuj Jain and others*** (Supra). This Court is in respectful agreement with the views expressed by the Division Bench of the Delhi High Court as well as the Single Bench.

12. The purpose for which the Commercial Courts Act enacted cannot be ignored by this Court while dealing with this issue. Admittedly, in the present case the plaintiff exited from the joint venture agreement based on the agreement entered into between the parties as evident from Ext.P4. The defendant had no case that he



is not bound by the terms and conditions of Ext.P4 agreement. Even assuming, for the sake of argument, that the defendant had not issued cheque which is the subject matter of the suit, even then, he was entitled to maintain the suit for recovery of money by seeking specific performance of Ext. P4 agreement, which, in turn, directly leads to the issue arising out of the Joint Venture Agreement. Be that as it may, this Court cannot subscribe to the contention raised on behalf of the petitioner that the dispute in the present case would not fall within the realm of a commercial dispute. So much so, the Commercial Court was perfectly justified in rejecting the application filed by the defendant raising the question of maintainability of the suit. This Court finds no jurisdictional error in Ext. P5 order warranting an



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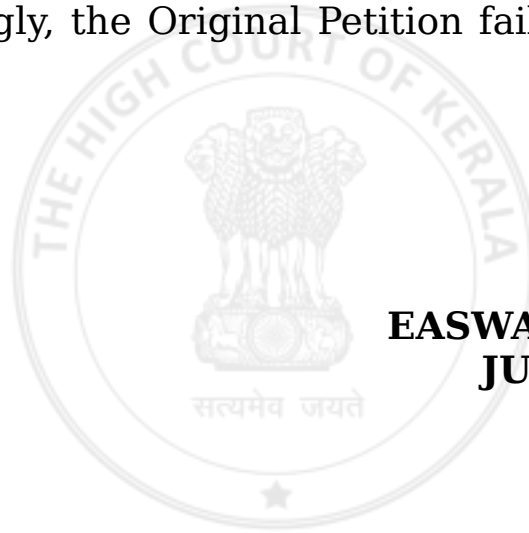


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interference by this Court exercising its discretionary jurisdiction under Article 227 of the Constitution of India.

Accordingly, the Original Petition fails and the same is dismissed.

kkj



Sd/-
EASWARAN S.
JUDGE

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APPENDIX OF OP(C) NO. 3011 OF 2025

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE PLAINT IN CS NO. 8/2023 OF SUB COURT, DEVIKULAM DATED 04.10.2023
Exhibit P2	TRUE COPY OF THE I.A NO. 10/2024 IN C.S NO. 8/2023 OF SUB COURT, DEVIKULAM DATED 13.08.2024
Exhibit P3	TRUE COPY OF THE OBJECTION OF THE RESPONDENT DATED 04.10.2024 IN C.S NO. 8/2023 OF SUB COURT, DEVIKULAM
Exhibit P4	TRUE COPY OF THE AGREEMENT DATED 10.09.2021 ALONG WITH ENGLISH TRANSLATION
Exhibit P5	TRUE COPY OF THE ORDER OF THE SUB COURT, DEVIKULAM (COMMERCIAL COURT) IN I.A NO. 10/2024 IN C.S.NO. 8/2023
Exhibit P6	TRUE COPY OF THE E-COURT PROCEEDINGS IN C.S.NO 8/2023 OF COMMERCIAL COURT/SUB COURT, DEVIKULAM FROM 05.11.2025 TO 19.11.2025