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MP-4989-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE DWARKA DHISH BANSAL

ON THE 7th OF OCTOBER, 2025

MISC. PETITION No. 4986 of 2025

PEOPLES INTERNATIONAL AND SERVICES PVT. LTD

Versus

ALLIANCE INDUSTRIES LTD

.....
Appearance:

Shri Amalpushp Shrotri and Shri Amit Kumar Sthapak - Advocates for petitioner.

*Shri Sanjay K. Agrawal, Senior Advocate with Shri Mihir Agrawal and Shri
Bhasker Pandey - Advocates for respondent.*

.....
WITH

MISC. PETITION No. 4989 of 2025

PEOPLE GENERAL HOSPITA PVT. LTD

Versus

ALLIANCE INDUSTRIES LTD

.....
Appearance:

*Shri Amalpushp Shrotri and Shri Amit Kumar Sthapak - Advocates for
petitioner.*

*Shri Sanjay K. Agrawal, Senior Advocate with Shri Mihir Agrawal and Shri
Bhasker Pandey - Advocates for respondent.*

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ORDER

Per. Hon'ble Shri Justice Sanjeev Sachdeva, Chief Justice

1. These petitions impugn orders both dated 26.08.2025, whereby the applications filed by the respective petitioner under Order 7 Rule 10 of the code of civil procedure has been dismissed holding that the



subject dispute is a commercial dispute and the plaint is not liable to be returned to be presented before a Non-Commercial Court.

2. These cases have a very chequered history. Petitioners are private limited companies of the same group and had filed three Suits in the year 2012 at the time when the Commercial Court Act had not been enacted. On the enactment of the Commercial Court Act these three Suits were transferred to the Commercial Court on the ground that the dispute was a commercial dispute. These two Suits which are subject matter of these two petitions were dismissed in default however, the third Suit continued. An objection was raised by respondent/defendant therein that the dispute in the subject Suit was not a commercial dispute and as such could not be tried by a Commercial Court. During the pendency of the application by an administrative order by this Court and the Suit was transferred to an ordinary Civil Court. Subsequently by judgment dated 20.12.2022 the third Suit was dismissed by the Civil Court against which an appeal has been filed in the year 2023, which is pending consideration before this Court.
3. In the Suits which were dismissed for non prosecution, petitioners filed application for restoration which was rejected by the then Commercial Court. Appeal against the rejection order was preferred before the Division Bench of the Court. The Appeals were allowed and the Suits were restored. However, instead of the Suits being restored on the record of the Commercial Court the Suits were restored on the record of the Civil Court. Appellant filed an application



before the Civil Court for transfer of the Suits to the Commercial Court on the ground that the underlying dispute was a commercial dispute and hence the Suits were liable to be transferred to and tried by a Commercial Court. The Suits were thus transferred to the Commercial Court.

4. Thereafter the Suits continued before the Commercial Court and evidence of the parties have been recorded and now the Suits are at the stage of final arguments. At the stage of final arguments, subject application under Order 7 Rule 10 has been filed by the petitioner contending that the Suits should be transferred to an ordinary Civil Court for the reason that the underlying dispute is not a commercial dispute.
5. We note that petitioner is trying to blow hot and cold and take a stand contrary to the stand earlier taken. Earlier, on enactment of the Commercial Court Act, the Suits were transferred from the Civil Court to the Commercial Court. No objection was raised by the petitioner at that point of time that the Suits could not be tried by a Commercial Court or that the underlying dispute was not a commercial dispute. Subsequently, when the Suits were restored and on account of an administrative error were restored on the record of the Civil Court and not the Commercial Court, Petitioner itself moved an application seeking transfer of the Suits to the Commercial Court on the ground that the underlying dispute was a commercial dispute and as such triable by a Commercial Court.



6. Once, the Suits were transferred to the Commercial Court, substantial progress has been made in the Suits inasmuch as evidence of the parties was recorded and concluded. Now when the Suits have reached the stage of final arguments, petitioner has come up with the application that the Suits are not triable by the Commercial Court and is thus liable to be transferred to the ordinary Civil Court. Such a contradictory stand, on behalf of the petitioner, cannot be permitted. Once the petitioner has categorically stated that the underlying dispute is a commercial dispute arising out of commercial transaction between the parties and itself got the Suits transferred to the Commercial Court, petitioner now cannot be permitted to seek return of the plaint to be presented afresh before an ordinary Civil Court. We note that the Suits were filed in the year 2012 and 13 years have been passed and are still pending.
7. We may further note that the dispute pertains to a transaction between two companies and as per the plaint, respondent had agreed to invest in the petitioner by purchase of its equity. Respondent is the shareholder and had participated in acquisition of the equity share capital of the petitioner and even as per the plaint there is a reference to an understanding between defendant company and the plaintiff company i.e. shareholders of the plaintiff company that further amount shall be invested in the petitioner company and the allegation is that since the investment was not made and the respondent did not make true and full disclosure, subject Suits have been filed claiming



damages. We are of the view that the underlying dispute does have a commercial flavour and even otherwise petitioner has repeatedly taken a stand that the dispute is a commercial dispute and thus liable to be tried by a Commercial Court.

8. We may also note that the commercial Judge in the instant case is of the rank of an Additional District Judge who is entitled to try and adjudicate a civil dispute. In case, the Suits were to be transferred to an ordinary Civil Court, same would also be liable to be transferred to a Court of an Additional District Judge. An Additional District Judge who is designated as commercial Court has the power to try an ordinary Civil Suit however *vice versa* may not be true. So no prejudice would in any event be caused to the Petitioner if the Suits continue before the Commercial Court. Further, learned senior counsel for the Respondent submits that they have not taken any objection of jurisdiction before the Commercial Court and do not contend that the Suits are liable to be transferred.

9. In the instant case, keeping in view the fact that the suit has been pending for over 13 years and petitioner has also repeatedly taken a stand that the dispute is a commercial dispute, we find no ground to interfere with the impugned order whereby the Commercial Court has dismissed the application under Order 7 Rule 10 filed by the petitioner seeking return of the plaint. We are informed that the suit is at the stage of final arguments and the arguments are underway.

10. In view of the above, we find no merit in the petitions and the



petitions are accordingly dismissed. The trial Court is directed to expeditiously conclude the proceedings and render a judgment as expeditiously as possible, preferably within a period of two months from today.

11. Certified copy today.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

VPA

(DWARKA DHISH BANSAL)
JUDGE