UKHC010163902023

2026:UHC:6627

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No. 405 of 2023

B K Aqua Enterprises by Partners .....Appellant

Versus

Ms Shripati Beverages Pvt Ltd
And others .....Respondents

Present:-

Mr. Shobhit Saharia, Advocate for the appellant.
Mr. Vikas Singh Yadav and Mr. Ajeet Kumar Yadav, Advocates for the respondents.

Hon'ble Ravindra Maithani, J. (Oral)

Instant appeal is preferred against the order dated 17.03.2023, passed in Civil Suit No. 106 of 2022, M/S Shripati Beverages Pvt. Ltd. Vs. M/S B. K. Aqua Enterprises and others ("the suit") by the court of Senior Civil Judge, Ramnagar, District Nainital. By it, an application for temporary injunction filed by the respondents has been allowed and the appellant has been restrained to take possession, to operate etc. in the suit property.

2. Heard learned counsel for the parties and perused the record.

3. When the matter was taken up, learned counsel for the appellant argued that the dispute in the suit is commercial dispute, as defined under Section 2 (c) of the Commercial Courts Act, 2015 ("the Act") and the civil court cannot entertain such suit and even the pending suits were to be transferred to commercial court, in view of Section 15 of the Act. He would submit that the operation of the

impugned order has already been stayed by this Court by the order dated 04.09.2025.

4. Learned counsel for the appellant submits that the appellant would file amendment application with the written statement taking this plea so that an issue may be framed and decided as preliminary issue with regard to the jurisdiction of the civil court to entertain the suit. He would submit that the amendment application would be filed by the appellant within 14 days.

5. Learned counsel for the respondents submits that in case, within 14 days amendment application is filed in the suit by the appellant and an issue with regard to the jurisdiction of the civil court is framed *qua* the applicability of the Act and it may be decided as preliminary issue. He is agreeable that till then, the operation of the impugned order may be kept in abeyance.

6. The Court takes on record the statement given by learned counsel for the respondents.

7. The appellant is at liberty to seek amendment in the written statement taking the plea of jurisdiction of the civil court to entertain the suit in view of the provisions, as contained under the Act. If such a plea is taken within 14 days based on the pleadings an additional issue may be framed and decided as expeditiously as possible. Till then, the operation of the impugned order dated 17.03.2023 shall remain in abeyance.

8. The appeal stands disposed of accordingly.

(Ravindra Maithani, J.)
30.07.2026

Jitendra