

KABC170009142025



**IN THE COURT OF LXXXV ADDL. CITY CIVIL & SESSIONS
JUDGE, AT BENGALURU (CCH-86) (Commercial Court)**

THIS THE 6th DAY OF MARCH 2026

PRESENT:

**SRI.ARJUN. S. MALLUR. B.A.L.LL.B.,
LXXXV ADDL. CITY CIVIL & SESSIONS JUDGE,
BENGALURU.**

Com.OS.No.362/2025

BETWEEN:

Sri. B H Basha,
Proprietor of,
Bahar Enterprises
101, Mamatha A Block,
IV Main, Gandhinagar,
Bangalore - 560009

Since Dead represented by Lrs

1(a). Smt. Parveen Taj,
W/o Late B.H.Basha,
Aged about 67 years,

1(b). Smt. Heena Kauser,
D/o Late B.H.Basha,
Aged about 42 years,

1(c). Smt. Afsana Kauser,
W/o Late B.H.Basha,
Aged about 38 years,

1(d). Sri. Fahad Nawaz,
W/o Late B.H.Basha,
Aged about 31 years,

All are R/at No.18, 13th Cross,
Jayamahala extension,
Bangalore North,
Bangalore -560046.

: PLAINTIFFS

(Represented by Sri. MTN Associates, Advocate)

AND

Mallikarjuna Chitra Mandira
Nehru Road,
Shimogga -577201
Rep By Its Partners
H R Shylesh And H R Swaroop

: DEFENDANT

(Represented by Sri.P N Harish Advocate)

Date of Institution of the suit	06.03.2025
Nature of the suit (suit on pronote, suit for declaration & Possession, Suit for injunction etc.)	Suit for Recovery of Money.
Date of commencement of recording of evidence	14.01.2026
Date on which judgment was	06.03.2026

pronounced			
Total Duration	Year/s 01	Month/s 00	Day/s 00

(ARJUN. S. MALLUR)
LXXXV Addl.City Civil & Sessions Judge,
Bengaluru.

J U D G M E N T

Suit for recovery of a sum of Rs.23,47,500/- (Twenty Three Lakhs Forty Seven Thousand Five Hundred Only) with interest at 24% p.a. till realization.

2. The case of the plaintiff in brief is as under:-

The deceased plaintiff is the proprietor of Bahar Enterprises which is involved in distribution and finance of films in and around Karnataka. The defendant is a partnership concern represented by its partners H.R. Shylesh and H.R. Swaroop which runs a theater at Shimoga. The deceased proprietor by name B.H.Bhasha and the defendant entered into a Letter Of Understanding (LOU) dated 14.11.2019 under which the defendant agreed to lease out the film exhibiting time in the defendant theatre at Shimoga. The lease was to commence from 22.11.2019 for a period of 200 weeks

comprising of 4 shows of daily screening of film supplied by the plaintiff. Towards the said lease as per the terms of LOU dated 14.11.2019 the plaintiff paid a sum of Rs.10,00,000/- as advance amount which came to be transferred through RTGS to the bank account of the defendants. It is submitted that as per clause VI of LOU the defendant was entitled for rent of Rs.1,50,000/- per week for a period of 100 weeks and thereafter the defendant was entitled for a fixed share of Rs.1,50,000/- for the next 100 weeks. As per the terms of the LOU the defendant was required to pay the required GST, Electricity and water and other charges regularly. The rent amount was required to be remitted on every Tuesday and further the advance amount of Rs.10,00,000/- was to be repaid in installments of Rs.5,000/- each within a period of 200 weeks. It is submitted that pursuant to the lease entered into between the parties the Nation came to be hit by Covid 19 pandemic which resulted in closure of the theaters rendering the lease non performable and the last film that came to be exhibited at the defendant theater was for the period 03.03.2022 to 24.03.2022. Due to Covid 19 pandemic the plaintiff was not able to exhibit films and further deceased proprietor suffered critical health conditions and the defendant abruptly stopped

screening of the films without any intimation from 24.03.2022. It is submitted that apart from the amount of Rs.10,00,000/- transferred as security deposit the plaintiff had also paid a sum of Rs.5,00,000/- by way of cash and totally the entire security deposit amount was Rs.15,00,000/-. Out of the said amount at the rate of Rs.5,000/- per week for 25 weeks the defendant has repaid a sum of Rs.1,25,000/- and has remained in balance the amount of Rs.13,75,000/-. It is submitted that in spite of repeated demands the defendant has failed to refund the advance amount of Rs.13,75,000/- which the defendant is now liable to pay with interest at 24% p.a. After stopping screening of the films supplied by the plaintiff the defendant has now leased out the theater for exhibiting movies to one M/s Jayanna Films, Gandhinagara, Bengaluru. It is submitted that there are repeated correspondences with the defendant for refund of security deposit with interest to which the defendant does not comply. The plaintiff also issued a notice dated 13.08.2024 to which defendant has sent an untenable reply dated 20.08.2024. It is submitted that the defendant is liable to pay a sum of Rs.13,75,000/- being the balance security deposit amount. On that amount the defendant is also liable to pay interest at 24% p.a. from 18.03.2022 to

12.03.2025 amounting to Rs.9,62,500/- and also liable to pay sum of Rs.10,000/- towards notice charges and totally the amount of Rs.23,47,500/-. Hence the suit.

3. On service of summons the defendant has appeared through its counsel and filed a written statement along with a counter claim. The defendant has admitted entering into the letter of understanding (LOU) dated 14.11.2019 but contended that the said document came to be executed at Shimoga and not at Bengaluru as contended by the plaintiff. The defendant has taken a principal objection that as the letter of understanding was executed at Shimoga this Court would have no jurisdiction to entertain the suit. Apart from it the defendant also admits transferring a sum of Rs.10,00,000/- as security deposit to plaintiff through RTGS. It also admits requirement of payment of sum of Rs.5,000/- per week for 200 weeks amount towards refund of the security deposit of Rs.10,00,000/-. The defendant specifically contends that under clause VI of the LOU it was entitled to receive a sum of Rs.1,15,000/- as rent for the initial period of 100 week and thereafter the defendant was entitled to get weekly fixed share of Rs.1,20,000/- for the next 100 weeks. The weekly rent amount would include gross box

office collections after deducting service charges, representative bata, publicity charges, GST tax. It is submitted that on behalf of the plaintiff the film was screened from 22.11.2019 to 24.03.2022 for a period of 60 weeks. Screening of the films has been made on a weekly rental basis as per the terms of the LOU. It is submitted that the closure of the theaters on account of Covid 19 pandemic was only for a limited period in the year 2020 and 2021 and not for the whole year. It is submitted that from 22.11.2019 to 24.03.2022 the defendant has exhibited the films supplied by the plaintiff and has sent the daily collection reports to the plaintiff. It is submitted that the plaintiff committed the breach of the terms of the LOU and was responsible for cancellation of the LOU. The defendant submits that he has repaid the security deposit for a period of 15 weeks at Rs.5,000/- per week amounting to Rs.75,000/- out of the advance amount of Rs.10,00,000/-. The defendant categorically denies receipt of additional security of Rs.5,00,000/- and submits that there are no documents evidencing payment of the additional deposit of Rs.5,00,000/-. It is submitted by the defendant that the plaintiff is due in a sum of Rs. 6,29,806/- which is the rentals payable for the period 22.11.2019 to 24.03.2022 which plaintiff himself is liable

to pay with interest at 24% p.a. It is submitted that as per the statement of accounts maintained by the defendant the plaintiff is due in a sum of Rs.6,29,806/- for which interest at 24% p.a. from 24.03.2022 to 24.03.2025 would come to Rs.4,53,460/- and together with notice charges of Rs.25,000/- the plaintiff is liable to pay a sum of Rs.11,08,266/- and hence a counter claim to that affect is raised by paying the required Court fee.

4. The plaintiff has filed written statement to the counter claim denying the contentions put forth in the counter claim and contended that out of the period agreed under the LOU there was exhibition of films only for a period of 44 weeks as the period of Covid 19 pandemic had to be excluded and as the defendant breached the terms of LOU and stopped exhibiting the films supplied by the plaintiff no liability accrues on part of the plaintiff to pay for the rentals for 60 weeks as there was no exhibition of films continuously for 60 weeks. It is submitted that the Covid 19 pandemic period rendered the LOU unenforceable and non performable for which the defendant cannot claim payment of rents. As the defendant has abruptly stopped screening of the films he is liable to refund the balance security deposit and therefore seeks for rejecting the

counter claim with costs.

5. Based upon the pleadings, the following issues have been framed:

ISSUES

- 1) Whether the plaintiff proves that the defendant is liable to pay a sum of Rs.23,47,500/- being the balance refundable security deposit with interest as claimed in para 13 of the plaint?
- 2) Whether the defendant proves that the plaintiff is liable to pay a sum of Rs.11,08,266/- being the amount due by him together with interest at other charges as claimed under the counter claim?
- 3) Whether defendant proves that the LoU dated 14.11.2019 is executed at Shivamogga and this court has no jurisdiction to try the present suit?
- 4) Whether the plaintiff is entitled for the suit claim as prayed?
- 5) Whether the defendant is entitled for the counter claim as prayed?
- 6) What order or decree?

6. During the pendency of the proceedings the proprietor of the Bahar Enterprises Shi B H Bhasha expired and his legal heirs at plaintiff's 1(a) to 1(d) have been brought on record.

7. The plaintiff No.1(d) has examined himself as PW-1 and got marked documents at Ex.P.1 to P.4. The partner of defendant examined himself as DW-1 and got marked documents at Ex.D1 to D4.

8. Heard the learned counsels appearing for both sides. Perused the entire material on record. The learned counsel for the defendant has also filed written submissions.

9. My answer to the above issues are as under:-

Issue No.1: In the **Partly in the Affirmative**

Issue No.2: In the **Negative**

Issue No.3: **Redundant.**

Issue No.4: In the **Partly in the Affirmative**

Issue No.5: In the **Negative**

Issue No.6: As per final order for the following.

REASONS

10. ISSUE No.3:-The defendant has raised a specific contention in the written statement that this Court has no territorial jurisdiction to entertain the suit as the letter of understanding came to be executed at Shivamogga and only the jurisdiction at Commercial Court Shivamogga is empowered to try the suit. With regard to the objection as to the place of jurisdiction the defendant had filed I.A.No.3 under Order VII Rule 10 of CPC seeking return of plaint. The said application came to be contested by the plaintiff and vide order dated 19.07.2025 the application came to be rejected holding that this Court has jurisdiction to entertain the present suit. No appeal has been preferred against the orders on the said application which has now reached finality. Therefore the present issue in so far as jurisdiction of this Court has become **redundant** and the same is answered accordingly.

11. ISSUE Nos.1 and 2:- There is no dispute between the parties as regards the letter of understanding dated 14.11.2019 entered into between plaintiff and defendant for execution of films supplied by the plaintiff in the theater belonging the plaintiff. There is also no dispute as

regards a sum of Rs.10,00,000/- being transferred as security deposit through RTGS by the plaintiff to the defendant. It is also not in dispute that from 24.03.2022 onwards there has been no exhibition of films supplied by the plaintiff.

12. The plaintiff No.1(d) the son of deceased proprietor of Bahar Enterprise has examined himself as P.W.1 reiterating the averments made in the plaint and has got marked documents at Ex.P.1 to P.4. Ex.P.1 is the Letter issued by Sakra Hospital dated 03.02.2025 Ex.P.2 is the Office copy of the legal notice dated 13.08.2024 Ex.P.3 is the Reply notice dated 20.08.2024 with annexures Ex.P.4 is the Letter dated 11.12.2023 with postal receipt and postal acknowledgment with statement of account and copy of the bank counter foil. Against the evidence of the plaintiff one of the partners of the defendant has examined himself as DW1 reiterating the averments made in the written statement and counter claim and has got marked at Ex.D.1 to D.4. Ex.D.1 is the Original LOU dated 14.11.2019. Ex.D.2 is the Office copy of the reply notice dated 20.08.2024 along with enclosures. Ex.D.3 is the Statement of account with the plaintiff for the period 22.11.2019 to 24.03.2022. Ex.D.4 is the Daily collection

report with enclosures and consequent payments made from 22.11.2019 to 24.03.2022.

13. There is no dispute as regards the defendant being paid a sum of Rs.10,00,000/- by way of security deposit by the plaintiff which has been transferred through RTGS. The plaintiff also contends that there was also another sum of Rs.5,00,000/- that has been transferred by way of cash to the defendant which the defendant has categorically denied. At trial the proprietor of Bahar Enterprises Mr. B H Bhasha expired and his son has examined himself as P.W.1 and in his cross-examination he deposes that he is deposing before the Court based on the records of the case and also the information given by his father. The LOU which is at Ex.D.1 is not executed in the presence of any witnesses. The LOU also anywhere mention regarding additional sum of Rs.5,00,000/- being transferred by way of cash. P.W.1 deposes that his deceased father had given cash to the defendant and to substantiate the same no circumstances are brought out in the cross-examination of D.W.1 or in the evidence of the plaintiff to infer that in addition to the transfer of a sum of Rs.10,00,000/- a sum of Rs.5,00,000/- is also paid by way of cash towards security deposit. Therefore the contention of the plaintiff

that the defendant had paid additional sum of Rs.5,00,000/- is totally unsustainable. There is no cogent and satisfactory evidence supporting the payment of the said amount by way of cash and therefore the plaintiff would only be entitle for refund of the security deposit of Rs.10,00,000/-.

14. The plaintiff in the course of pleadings has contended that as per the terms of LOU which is evident from clause XII the security deposit of Rs.10,00,000/- is to be refunded at the rate of Rs.5,000/- per week for 200 weeks. Plaintiff has pleaded that the defendant has repaid about a sum of Rs.1,25,000/-. In the written statement and counter claim the defendant on the other hand contends that at the rate of Rs.5,000/- per week for 15 weeks the amount is paid by the defendant amounting to Rs.75,000/-. The defendant has produced the statement of account which is marked at Ex.D.3 which indicates a sum of Rs.75,000/- being refunded by the defendant. P.W.1 in the cross-examination has admitted that defendant has repaid a sum of Rs.75,000/- at the rate of Rs.5,000/- per week for 15 weeks. Therefore even though it is pleaded in the plaint that a sum of Rs.1,25,000/- is repaid the evidence is only to the effect that a sum of Rs.75,000/- has been repaid

and therefore deducting the said amount from the security deposit of Rs.10,00,000/- the defendant becomes liable to refund the balance amount of Rs.9,25,000/-.

15. By way of counter claim the defendant is contending that the plaintiff is due pay for the rents for 60 weeks commencing from 22.11.2019 to 24.03.2022. At the outset it is pertinent to mention here that the counter claim which should have all the strappings of a plaint is not in the form of plaint as required under the provisions of Order VIII Rule 6(a) of CPC. The counter claim does not say when the cause of action arose for it. D.W.1 in his cross-examination categorically admits that till the plaintiff issued the legal notice under Ex.P.2 which is on 13.08.2024 no proceedings has been initiated by the defendant for recovery of the rents allegedly due as claimed under the counter claim. To the said notice there is a reply sent which is at Ex.P.3 also marked as Ex.D.2 wherein the averments of the counter claim has been mentioned and D.W.1 admits that till the issuance of the reply notice no steps has been initiated against the plaintiff for recovery of the said amounts.

16. In the counter claim the defendant is contending that the plaintiff has remained due for a sum of Rs.6,29,806/-. Though there are no specific pleadings in the counter claim as to what is this amount due, whether plaintiff has not paid rents from the commencement of the LOU or whether these rents are due for any given period. To substantiate the said claim the defendant has produced a statement of account which is also been sent to the plaintiff along with the reply notice. The statement of account is at Ex.D.3 and it is signed by the partners of the defendant which indicates that out of the total advance of Rs.10,00,000/-, Rs.75,000/- is paid and there remains a balance of Rs.9,25,000/-. There is further a mention that a sum of Rs.15,54,806/- shown to be the excess amount paid. How this figure is arrived and what it constitutes nowhere pleaded in the counter claim. There is absolutely no pleadings in support of the entries in the statement of account and in the absence of any pleadings the document cannot be relied upon to arrive at a conclusion that the plaintiff becomes liable to pay a sum of Rs.6,29,806/- as claimed under the counter claim. To further support the statement of accounts at Ex.D.3 the defendant has produced the daily collection report at Ex.D.4. This is for the entire period commencing from

28.11.2019 ending by 24.03.2022. The Court has to take judicial notice of the fact that from 25.03.2020 till 04.02.2022 all the theaters in entire Karnataka came to be closed and there were no screening of films on account of lock down measures in force due to Covid 19 pandemic. It is only by way of the notification dated 04.02.2022 the Government permitted running of theaters to 100% capacity. Therefore during this period obviously even if the plaintiff had supplied the films the defendant could not have exhibited on account of the Government lock down measures. In the statement of account at Ex.D.3 it also reflects amounts due for the period 12.03.2020 to 03.02.2022. When the screening of films have been expressly prohibited during the said period the defendant could not have claimed rents for these period at all. Therefore the contention of the defendant that it had exhibited film for 60 weeks remains unsubstantiated probabalizing the fact that there was screening of films only for 44 weeks as contended by the plaintiff. The defendant in the counter claim no where specifically pleads about the exact number of weeks when the films came to be exhibited in the theater under the terms of the LOU. Though the LOU required exhibition of films for 200 weeks the exhibition of films has stopped from 24.03.2022

which is not in dispute. In the absence of cogent clear and specific pleadings in the counter claim supported by acceptable and admissible evidence the claim of the defendant for recovery of a sum of Rs.6,29,806/- cannot be sustained.

17. The plaintiff as well as the defendant have both claimed awarding of the interest at the rate of 24% p.a. The same is not substantiated with any cogent and satisfactory evidence. The LOU no where specifies refund of the security deposit with interest at 24% p.a. It only says that the same has to be refunded by way of Rs.5,000/- per week for 200 weeks. As admitted by P.W.1 and also as contended by the defendant till date only a sum of Rs.75,000/- has been refunded out of the security deposit. Under such circumstances in the absence of any contract or agreement for payment of any interest at any rate towards delay in refund of the security deposit the plaintiff would not entitled for any interest as sought. In so far as the defendant as it has been observed that defendant has failed to prove the claim due by the plaintiff as contended in the counter claim awarding any interest on payment of the amount under the counter claim would not arise. Thus for the aforesaid reason and

from considering the evidence on record it can be held without hesitation that plaintiff becomes entitled for recovery of the balance security deposit amount of Rs.9,25,000/- without any interest. Accordingly, I answer **Issue No.1 Partly in the Affirmative and Issue No.2 in the Negative.**

18. ISSUE Nos.4 and 5:- In view of the findings arrived under Issue Nos.1 and 2 the plaintiff would be entitled for recovery of a sum of Rs.9,25,000/- from the defendant without any interest. The defendant having failed to substantiate the counter claim with cogent and satisfactory evidence would not be entitled for the same. Accordingly, I answer **Issue No.4 Partly in the Affirmative and Issue No.5 in the Negative.**

19. ISSUE No.6:- For the aforesaid reasons, I pass the following.

ORDER

Suit of the plaintiff is ***decreed in part with costs.***

The defendant is liable to pay to the plaintiff a sum of **Rs.9,25,000/-**

(Rupees Nine Lakhs Twenty Five Thousand Only).

Counter claim of the defendant stands **dismissed**.

Draw decree accordingly.

Office to send soft copy of the judgment to respective parties on their email if furnished.

[Dictated to the Stenographer Grade-III, transcribed by her, corrected and signed by me then pronounced in the Open Court, dated **this the 6th day of March 2026**]

(ARJUN. S. MALLUR)
LXXXV Addl.City Civil & Sessions Judge,
Bengaluru.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF
PLAINTIFF:

PW-1	Sri. Fahad Nawaz
------	------------------

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE
PLAINTIFF

Ex.P.1	Letter issued by Sakra Hospital dated 03.02.2025
Ex.P.2	Office copy of the legal notice dated 13.08.2024
Ex.P.3	Reply notice dated 20.08.2024 with annexures
Ex.P.4	Letter dated 11.12.2023 with postal receipt and

	postal acknowledgment with statement of account and copy of the bank counter foil (subject to objection and relevancy)
--	--

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENDANT

DW-1	H.R. Shylesh
------	--------------

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE DEFENDANT

Ex.D.1	Original LOU dated 14.11.2019
Ex.D.2	Office copy of the reply notice dated 20.08.2024 along with enclosures
Ex.D.3	Statement of account with the plaintiff for the period 22.11.2019 to 24.03.2022
Ex.D.4	Amount collection report with enclosures and consequent payments made from 22.11.2019 to 24.03.2022 (pages 1 to 134)

(ARJUN. S. MALLUR)
LXXXV Addl.City Civil & Sessions Judge,
Bengaluru.