

KABC170010112023



**IN THE COURT OF LXXXIV ADDL. CITY CIVIL &
SESSIONS JUDGE, AT BENGALURU (CCH-85)
(Commercial Court)**

THIS THE 14th DAY OF NOVEMBER 2025

PRESENT:

**SRI. ANAND T. CHAVAN. B.Com.,LL.B.(Spl.)
LXXXIV ADDL. CITY CIVIL & SESSIONS JUDGE,
BENGALURU.**

Com.OS.No.504/2023

Plaintiff:- **Food Karnataka Limited,**
A Company Incorporated under the
Companies Act, 1956, having its
Registered Office at No.17, General
K.S Thimmayya Road, (Richmond
Road), Bengaluru-560 025.
Rep by its Managing Director,
Mr. K. Mohammed Irfan.

(Rep by Sri. Kiran V Ron -Adv)

V/s

Defendants:- 1. M/s Akshay Food Park Ltd.,

A Company incorporated under the Companies Act, 1956, having its Registered Office at No.1091, First Floor, Sampanappa Trust, OTC Road, Bengaluru-560 002.

& Also at: No.58/59, Karishma Farms, Gubbalala, Subramanya Post, Kanakapura Road, Bengaluru-560 061.

AND OTHERS.

(Rep by PNR -Adv)

PARTIES TO IA.NO.XI

**Applicant/
Plaintiff:**

Food Karnataka Limited

V/s

**Respondents/
Defendants:**

M/s Akshay Food Park Ltd., & Ors.,

(i)	Provisions under which the application is filed	U/Sec.60 of the Bharatiya Sakshya Adhiniyam 2023 R/w Sec.151 of CPC
(ii)	Relief sought for	Seeking permission to adduce secondary evidence.
(iii)	The date on which the application is filed	08.10.2025
(iv)	Number of the	1

	application	
(v)	The date on which the objection is filed by opponents	Nil
(vi)	The date on which the orders were passed on the said application	14.11.2025

ORDER ON IA No.XI

The plaintiff has filed above application Under Sec.60 of the Bharatiya Sakshya Adhinyam 2023 R/ w Sec.151 of CPC seeking permission to adduce secondary evidence of following documents.

1. Loan Agreement dtd.23.05.2007.
2. Deed of Guarantee dtd.23.05.2007.

2. It is averred in the affidavit of Managing Director of plaintiff company filed in support of above application that, the present suit is filed for recovery of loan advanced to defendants and defendants have filed their written statement. Subsequently issues are framed and suit is posted for plaintiff evidence. Present suit is filed for recovery of loan amount granted under Loan Agreement dtd.23.05.2007 and

also invoking personal guarantee of directors under Deed of Guarantee dtd.23.05.2007. The plaintiff is unable to produce original loan agreement and deed of guarantee before this court. The plaintiff is a special purpose vehicle set up for establishing food parks in State of Karnataka and it is incorporated on 29.04.2003. Initially it was functioning under Karnataka State Industrial and Infrastructure Development Corporation (KSIIDC) of Commerce and Industries Department from 2003 to 2011. In the year 2011 functioning of plaintiff was transferred to Karnataka Agriculture Department as per GO dtd.05.03.2011. At that time when the Loan Agreement and Deed of Guarantee were executed in the year 2007 the administration of plaintiff company was under KSIIDC, which was taken over by Agriculture Department from 2011. Subsequently registered office of plaintiff company is shifted to current address. For said reason plaintiffs are unable to locate the originals of said documents, despite their best efforts and the reasons are beyond their

control. Hence plaintiffs are unable to produce originals of above documents and for said reason photocopies of said documents may be marked. Further defendants have filed their written statement and admitted execution of loan agreement and receipt of sums under said agreement. Further execution of above documents are admitted by defendants in their statement of admission and denials of documents dtd.15.04.2024. Further defendants themselves had produced loan agreement dtd.23.05.2007 in Com.AP No.116/2024 filed by them by challenging the order dtd.19.03.2024 of this court in dismissing application under Sec.8 of Arbitration and Conciliation Act. Further in WP No.29046/2024 filed by defendants, they have admitted the above loan agreement. Hence present application and it is prayed to allow the application.

3. Despite sufficient opportunity, defendants have not chosen to file objections to above application and as such same is taken as not filed.

4. The following points arise for consideration:

1. Whether plaintiff has made out grounds to permit it to adduce secondary evidence of Loan agreement and Deed of guarantee dtd.23.05.2007, as prayed for in the application?

2. What order?

5. Heard arguments of counsel for plaintiff.
Perused materials on record.

6. The following are findings on above points:

Point No.1:- In the Affirmative.

Point No.2:- As per final order for following:-

REASONS

7. **Point No.1:-** Plaintiff has filed present suit against defendants for recovery of Rs.6,48,50,000/- together with interest at the rate of 12% pa., and costs. The plaintiff has sought for recovery of sums advanced as a loan under loan agreement dtd.23.05.2007 and plaintiff has also invoked the deed of guarantee dtd.23.05.2007 executed by defendant Nos.2 to 4 in favour of plaintiff. Further

plaintiff has stated in para No.10 of plaint that, as per Clause 2.3 of loan agreement, defendants had to repay the loan in 40 quarterly equivalent terms with moratorium of 10 years from the date of disbursement of first installments. On the other hand, defendants in their common written statement have admitted the receipt of loan and fact that the loan has not been repaid.

8. Further in this case defendants have taken specific defence that, defendant No.1 was put into an inevitable situation to accept interest free unsecured loan with repayment period from 20 years to 10 years plus interest on default and defendants were not made known about General Financial Rules (GFR) and they were misled by officials of plaintiffs, State Government and Central Government. Further defendants have also seriously contended that non-payment of loan amount was due to assurance of plaintiffs to get aforesaid interest free loan converted back to state grant after easing of General Financial Rules during next financial year, same was not done as assured by plaintiff.

9. Now when case is posted for further chief examination of PW1, plaintiff has come up with present application seeking to adduce secondary evidence of above documents. It is specific case of plaintiff that, due to change in administration of KSIIDC and shifting of their office, the originals of above documents could not be located at present and as such they unable to produce original documents. However defendants have not denied and disputed the aforesaid loan nor they have challenged the present application by filing their objections. Further as rightly submitted by plaintiffs side, defendants have admitted aforesaid documents in their statement of admissions and denials filed on 15.04.2024. Further as per copy of List of documents produced by defendants in Com.Appeal No.116/2024, it shows that defendants themselves have produced Loan agreement dated 23.05.2007 with said appeal. Hence it is crystal clear that there is no dispute with regard to execution of said document by defendants side. Hence no hardship will be caused to defendants, if plaintiffs are permitted to adduce

secondary evidence of above documents. Plaintiff has fulfilled requirement of section 60 of Bharatiya Sakshya Adhinyam 2023 for permitting it to adduce secondary evidence as prayed for in the application. For these reasons, sufficient grounds are made out by plaintiff to allow the application. Accordingly, **Point No.1 is answered in the affirmative.**

10. Point No.2:- For the reasons stated and findings given on point No.1, following is:

ORDER

IA No.XI filed by plaintiff Under Section 60 of the Bharatiya Sakshya Adhinyam 2023 R/w Sec.151 of CPC is hereby allowed.

The plaintiff is permitted to adduce secondary evidence of Loan Agreement and Deed of Guarantee dtd.23.05.2007, as prayed for in the application.

No order of costs.

[Dictated to the Stenographer Grade-III, directly on the computer, typed by her, then corrected and signed by me and pronounced in the Open Court, dated **this the 14th day of November 2025**]

(ANAND T. CHAVAN)

LXXXIV Addl.City Civil & Sessions Judge,
Bengaluru.