

KABC170012282021



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

**THIS THE 5<sup>th</sup> DAY OF DECEMBER 2025**

**PRESENT:**

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

**Com.O.S.No.25855/2017**

**Plaintiff:- M/s Gaurav Rose Real Estate Pvt.  
Ltd.** A Company incorporated under the  
Companies Act, 1956  
Having its registered office at  
No.9/12, Lal Bazar Street,  
Merchantile Building,  
Block-E, 2<sup>nd</sup> floor, Kolkata-001.  
Rep. by its Authorized Signatory  
Rohan Agarwal

**(Rep by M/s AKS Law Associates -Adv)**

**V/s**

**Defendants:- M/s Blue Horizon Hotels Pvt. Ltd.**  
A company incorporated under the  
Companies Act, 1956,  
Having registered office at:

No:172/1, Srinivas Industrial Estate,  
 N.S.Palya, Bannerghatta Road,  
 Bengaluru-560076  
 Rep. by its Directors  
 A.C.Srinivas Raju and A.M.Ramaraju  
**and Others**

**(Rep By AK For D1, BSA- Adv for D2, VGB Adv for D3,  
 PK Adv for D4, MK Adv for D5, MS Adv for D6)**

**PARTIES TO IA.NO.34**

**Applicant/** M/s Blue Horizon Hotels Pvt. Ltd.  
**Defendant No.1:**

**V/s**

**Opponent/** M/s Gaurav Rose Real Estate Pvt.  
 Ltd.

**Plaintiff:**

(i)	Provisions under which the application is filed	U/Order XI(10) and 5 of Commercial Courts Act
(ii)	Relief sought for	Production of documents.
(iii)	The date on which the application is filed	18.09.2025
(iv)	Number of the application	1
(v)	The date on which the objections are filed by different opponents	By Plaintiff on 14.10.2025
(vi)	The date on which the orders were passed on the said application.	05.12.2025

### **ORDER ON IA No.34**

The defendant No.1 has filed present application under Order XI (10) and 5 of the Commercial Courts Act seeking to grant leave to said defendant to produce the following documents as documentary evidence.

a.	Board Resolution dated 15/09/2025.
b.	Statement of account dated 12.2.2020 issued by the Bank of Baroda along with Certified copy of the DD bearing No.184704.
c.	Statement of account dated 2.7.2020 issued by the Bank of Baroda.
d.	Statement of account dated 10.7.2020 issued by the Bank of Baroda.
e.	Statement of account dated 21.7.2020 issued by the Bank of Baroda.
f.	Statement of account from 01.02.2021 to 28.2.2021 issued by HDFC Bank Ltd
g.	Statement of account dated 24.4.2023 issued by the Bank of Baroda along with Certified copy of the DD bearing No.076804. h. Statement of account dated 07.6.2023 Issued by the Bank of Baroda.
h.	Statement of account dated 07.6.2023 Issued by the Bank of Baroda.
i.	Statement of account dated 29.8.2023 issued by the Bank of Baroda.
j.	Statement of account dated 03.10.2023 issued by the Bank of Baroda.
k.	Statement of account from 01.11.2023 to 30.11.2023 issued by the Bank of Baroda along with Certified copy of the DD bearing No.077215.
l.	Statement of account from 01.01.2024 to 31.01.2024 issued by the Bank of Baroda along with Certified copy of the DD bearing No.077322.
m.	Statement of account from 01.02.2024 to 29.02.2024 issued by the Bank of Baroda along with Certified copy of the DD bearing No.077342.
n.	Statement of account from 01.4.2018 to 12.9.2018 issued by the Bank of Baroda.
o.	Statement of account dated 25.7.2022 issued by the Bank of Baroda.
p.	Statement of account dated 23.9.2022 issued by the Bank of Baroda.
q.	Statement of account dated 16.11.2022 issued by the Bank of Baroda.

r.	Statement of account from 01.8.2022 to 31.8.2022 Issued by HDFC Bank Ltd.
s.	Statement of account dated 05.01.2023 issued by the Bank of Baroda.
t.	Certified Copy of Company Petition No.161/2016.
u.	Certified Copy of Company Petition No. 160/2016.
v.	Certified Copy of order sheet in COP No.160/2016 clubbed with COP No.161/2016.
w.	Certified Copy of final order passed in W.P No.4668/2025 dtd.22/3/2025.
x.	Certified Copy of final order passed in W.P No.6621/2025 dtd.22/3/2025.
y.	Certified Copy of Memorandum Confirming the Extension of Equitable Mortgage dated 16/12/2011.
z.	Certified Copy of Memorandum of deposit of title deeds 09.02.2012.

**2.** It is averred in affidavit of Authorized Representative of defendant No.1 company, which is filed in support of application that, document bearing Sl.No.a sought to be produced along with the application is Board Resolution of defendant No.1 company, documents bearing Sl.No.b to s are Statements of accounts of said company, Sl.No.t to x are Certified copies of petitions, order sheet, order passed by Hon'ble High Court of Karnataka and Sl.No.y and z are memorandum of deposits of title deeds. It is further averred that the above documents could not be produced earlier, as several of them pertain to subsequent proceedings before Hon'ble High Court of Karnataka and which came into

existence after filing of present suit. These documents were obtained recently after due diligence. The statements of accounts and memorandum of deposits of title deed are crucial to demonstrate to true financial transactions with plaintiff. The certified copies of proceedings of Hon'ble High Court of Karnataka are equally important and directly relate to issues in controversy between parties. Non production of above documents is bonafide, unintentional and not deliberate one. Defendant No.1 has no intention to protract the proceedings and above documents are necessary for full, proper and final adjudication of matter in dispute. If delay is not condoned, defendant will be put to great prejudice and its defence would remain incomplete. These amongst other grounds, it is prayed to allow the application.

**3.** The plaintiff has filed its objections to above application wherein it is averred that, the application is neither maintainable under law nor under facts and it is liable to be dismissed. It is further averred that one Mr. Prasad Babu M has represented and duly signed affidavit on behalf of defendant No.1, without

seeking the leave of court by producing any board resolution. He is not competent to swear the affidavit filed in support of application. Further as per order XI Rule 9 of Commercial Courts Act, written statement shall contain a declaration on oath by deponent that all documents in power, possession, control and custody of defendant, pertaining to the facts and circumstances of the case have been disclosed and copies thereof are annexed with written statement. However defendant No.1 has not produced any documents along with written statement and it has suppressed above documents for the reasons best known to them. The affidavit of application does not disclose any reasonable grounds as to why defendant has not produced aforesaid documents. These amongst other grounds it is prayed to reject the application.

**4.** The following points arise for consideration.

***1. Whether defendant No.1 has made out grounds to grant leave to produce documents as documentary evidence, as prayed for in the application?***

***2. What order?***

5. Heard arguments of both sides, perused entire records.

6. The followings are findings to above points.

***Point No.1:- In the Affirmative.***

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

**REASONS**

**7. Point No.1:-** The plaintiff has initially filed present suit against defendant Nos.1 to 4 seeking relief of recovery of Rs.5 Crores borrowed by defendant No.1 company under Mortgage Deed dtd.04.04.2014 executed by defendant No.4 along with interest at the rate of 24% pa., and it is further prayed to declare that Mortgage Deed dtd.28.05.2015 executed by defendant No.1 in favour of defendant Nos.2 and 3 as not binding upon plaintiff. It is further prayed to order for sale of plaintiff schedule properties belonging to defendant Nos.1 and 4, in the event of defendant Nos.1 and 4 failing to repay the above dues and to pay the plaintiff out of sale proceeds of such properties. Subsequently defendant Nos.5 and 6 have been impleaded in present suit as per order on IA No.4 dtd.05.03.2022 on specific ground that they being subsequent

purchasers of mortgaged property are necessary parties. Defendants no.1, 3 to 5 have filed their written statement and after framing of issues, now the matter is posted for evidence of defendant No.1. At this stage, defendant No.1 has come up with present application seeking to produce aforesaid additional documents.

**8.** It is necessary to mention that though defendant has filed present application under Order XI(1) and 5 of Commercial Courts Act, quoting incorrect provision cannot be a ground to reject the application and present application for additional documents, need to be considered in the light of Order XI, Rule 1(10) of amended CPC in relation to Commercial disputes. It is specifically contended by defendant No.1 that aforesaid documents pertain to subsequent proceedings before Hon'ble High Court of Karnataka and which came into existence after filing of present suit. These documents were obtained recently after due diligence. It is further averred that some of documents are statements of accounts and memorandum of deposits of title deed, which are crucial to demonstrate true financial transactions

with plaintiff. The certified copies of proceedings of Hon'ble High Court of Karnataka are equally important and directly relate to issues in controversy between parties. Further the Board Resolution pertains to authorizing one Mr. Prasad Babu N to conduct the cases and other legal proceedings on behalf of defendant No.1 company. On bare perusal of aforesaid documents, it shows that, majority of documents are obtained by plaintiff from various sources in the year 2023, which is after nearly six years from the date of filing of present suit. Moreover, defendant No.1 has also produced copies of company petitions filed before Hon'ble High Court of Karnataka, which are said to be related to present proceedings of the case. No doubt, order XI Rule 1(10) of CPC mandates specific procedure for defendant to produce and disclose all documents related to particular proceedings, which are in his custody, possession, control and power at the time of filing written statement or during extended period of 30 days, if such liberty is sought. However, admittedly the aforesaid documents appears to have been obtained subsequent to filing of the suit and as

such same were not in existence at the time of filing of written statement by defendant No.1. Hence defendant no.1 has made out reasonable cause for non production and non disclosure of above documents with written statement. Further the aforesaid documents appears to be necessary for effective adjudication of the case and majority of documents pertaining to legal proceedings are not deemed to have been disputed by plaintiff side. Hence sufficient grounds are made out by defendant No.1 to permit production of aforesaid documents and if same is not permitted, defendant No.1 will be deprived of contesting the case on merits. Further plaintiff will get sufficient opportunity to question validity of above documents by way of cross-examination and no prejudice will be caused to plaintiff, if application is allowed. Hence application deserves to be allowed on suitable costs to compensate delay and inconvenience caused to other side. Hence, **Point No.1 is answered in the Affirmative.**

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

**ORDER**

**IA No.34 filed by defendant No.1 under Order XI (10) and 5 of the Commercial Courts Act, is hereby allowed, on costs of Rs.2,000/-.**

**Subject to payment of costs, the documents enclosed with IA No.34 are taken on record.**

[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 5<sup>th</sup> day of December 2025**]

**(ANAND T. CHAVAN)**

LXXXIV Addl.City Civil & Sessions Judge,  
Bengaluru.