

KABC170017232023



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

THIS THE 3rd DAY OF JANUARY 2026

PRESENT:

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

Com.OS.No.840/2023

Plaintiff:-

B.V.S Manjula,

W/o Mr. Gopi Bellumkonda,

Aged Major, R/at No.123,

16th 'A' Main Road, 4th Block,

Koramangala, Bengaluru-560 034.

Proprietrix of M/s Go Italia,

Rep by her POA

Mr. Gopi Bellumkonda,

(Rep by Sri. Lokesh Anjanappa -Adv)

V/s

Defendant:- **Blue Horizon Hotels Pvt. Ltd.,**
 CIN No.U55101KA2007PTC041367,
 A Pvt. Ltd., Company incorporated
 under the provision of the
 Companies Act, 1956, having its
 Registered Office at No.#172/1,
 Srinivasa Ind'l Estate, Bannerghatta
 Road, Bengaluru-560 076.
 Rep by its Director Mr. A V Nitin Raju/
 Center Director (Vega City, B'lore),
 Mr. Vaibhav More/ Mr. Srinivas V.

(Rep by Sri. K.R.Anand -Adv)

PARTIES TO IA.NO.16

Applicant/ Blue Horizon Hotels Pvt. Ltd.,
Defendant:

V/s

Respondent/ B.V.S. Manjula.
Plaintiff:

(i)	Provisions under which the application is filed	U/Or.XIV Rules 1,3,4&5 R/w Sec.151 of CPC
(ii)	Relief sought for	Seeking to frame additional issues.
(iii)	The date on which the application is filed	20.11.2025
(iv)	Number of the application	1

(v)	The date on which the objection is filed by opponents	By plaintiff on 25.11.2025
(vi)	The date on which the orders were passed on the said application	03.01.2026

ORDER ON IA No.16

The defendant has filed present application under Order XIV Rules 1, 3, 4 and 5 R/w Sec.151 of CPC seeking to frame following additional issues:-

Additional Issues.

1. Whether the defendant proves that the plaintiff has operated its restaurant for the period January 2021 to March 2021?

2. Whether the defendant proves that no payment/rent has been paid by the plaintiff for the period January 2021 to April 2021 on their own?

2. It is averred in the affidavit of Director of the defendant company filed in support of above application that, the plaintiff has filed a false case against defendant to harass and trouble them. The defendant is not in due of any amount to plaintiff except to the extent as admitted in the plaint.

Plaintiff has taken false contention that there is no amount due whatsoever towards rent for the period which they continued to their business in defendants premises. Plaintiff has also not produced any proof to show that payment towards rent has been made by plaintiff for the period between January 2021 to April 2021 on their own. It is contention of defendant that the rent for period from January 2021 to April 2021 has been deducted by defendant out of advance amount given by plaintiff at the time of signing the letter of intent and hence advance amount paid as per LOI is not refundable as amount/rent shown in Ex.D1 has not been cleared by plaintiff. Further statement of calculation of deduction of rent due by defendant has been shown as per Ex.D10 out of advance given by plaintiff at the time of signing letter of intent. As per the said statement which is also not denied by plaintiff, amount was deducted. These amongst other grounds, it is prayed to frame aforesaid additional issues for adjudication of the matter. Further defendant has filed a Memo

dtd.11.12.2025 stating that in view of conclusion of arguments on merits, defendant will not file or press for filing any recall application, if present application is allowed.

3. The plaintiff has filed objections to aforesaid application, wherein its averred that, the present application is impermissible, grossly belated and it is a dilatory tactics to stall adjudication of the suit and it is classic case of abuse of process of law. Further the application is filed with malafide intention to obstruct and frustrate the expeditious disposal of present commercial suit, which emphasis strict timelines and speedy adjudication. Further the entire evidence of both parties is completed and at no point of time defendant raised any request for additional issues. The present application is afterthought and filed after defendant realized that evidence on record does not support its defence. Further issues can be framed only on the basis of pleadings and not on new facts or contentions. Defendant has not disclosed any reasons for not seeking above issues during trial and

present application fails to satisfy requirement of due diligence. Further additional issues would inevitably required permitting parties to lead further evidence or reopening cross-examination and thereby altering the line of arguments already crystallized. The application would cause grave prejudice to plaintiff and to defeat the every object of expeditious disposal of the suit. Further framing additional issues must be exercised judicially and it must not prejudice the opposite party. These amongst other grounds, it is prayed to reject above application.

4. The following points arise for consideration:

1. Whether defendant has made out grounds to for framing additional issues, as prayed for in the application?

2. What order or decree?

5. Heard arguments of both sides. Perused records.

6. The following findings are on above points:

Point No.1:-In the Affirmative

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

REASONS

7. Point No.1:- The plaintiff has filed present suit against defendant for recovery of Rs.9,76,400/- together with interest at the rate of 18% pa., from 19.03.2022 till the date of its full realization. Defendant has appeared and filed his written statement by taking various defences and it has prayed for dismissal of the suit with exemplary costs. Now the evidence of both parties is concluded and arguments of both sides are also heard in part. AT this stage, defendant has come up with present application seeking to frame aforesaid additional issues, with undertaking that defendant does not intend to lead any further evidence. Moreover counsel for defendant has vehemently argued that the evidence on record is already sufficient for defendant in support of above issues. However counsel for plaintiff has seriously objected the above application by reiterating grounds urged in their objections. However admittedly there is serious dispute between parties with regard to refund of

advance amount paid by plaintiff to defendant and defendant has raised various contentions in the suit with regard to the rent.

8. Moreover aforesaid issues are sought to be framed with regard to operation of restaurant by plaintiff for the period from January 2021 to March 2021 and non payment of rent by the plaintiff for the period January 2021 to April 2021, which appears to be helpful for effective adjudication of matter and also to prove the liability of defendant to refund advance amount. No hardship or delay will be caused to other side, as defendant has already undertaken that it will not lead any further evidence on above issues. Hence considering facts and circumstances of the case and contentions raised by defendant, framing of above issues appear to be necessary for effective adjudication of matter in dispute. Hence sufficient grounds are made out by defendant to allow the above application and to frame additional issues as proposed in above application. 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.16 filed by defendant under Order XIV Rules 1, 3, 4 and 5, is hereby allowed. Following additional issues are framed.

Additional Issues.

1. Whether the defendant proves that the plaintiff has operated its restaurant for the period January 2021 to March 2021?

2. Whether the defendant proves that no payment/ rent has been paid by the plaintiff for the period January 2021 to April 2021 on their own?

No order as to 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 3rd day of January 2026**]

(ANAND T. CHAVAN)

LXXXIV Addl.City Civil & Sessions Judge,
Bengaluru.