

Com.OS.No.1045/2024

KABC170020822024



**IN THE COURT OF LXXXII ADDL.CITY CIVIL &
SESSIONS JUDGE, COMMERCIAL COURT,
BENGALURU (CCH-83)**

**PRESENT: SRI. VIDYADHAR SHIRAHATTI,
LL.M., LXXXII ADDL.CITY CIVIL & SESSIONS
JUDGE, BENGALURU.**

Com.O.S.No.1045/2024

Dated on this 24th Day of March 2026

IA No. 3

Plaintiff M/s Tenacity Logistics.

// versus //

**Defendant M/s Chariot International Private
Limited.**

ORDERS ON I.A. NO. 3

The Plaintiff has filed this application under Order 11 Rule 1 (5) of CPC for seeking permission to file below Additional documents as listed below:

Com.OS.No.1045/2024

1. The downloaded copy of the email sent by the Defendant to the plaintiff along with ledger attachment.
2. The Download copy of Bank statement of the Plaintiff.
3. The original canceled credit note No. 5 to 8 dated 16.09.2023.

2. In accompanying affidavit the Plaintiff stated on oath that, the plaintiff has filed this suit for recovery of money against the Defendant. Due to oversight, certain documents were not filed at the time of filing of the suit. Now seeking permission to produce the documents mentioned in the accompanying list. These documents are crucial and relevant to the adjudicating of the present suit. Hence, he prayed to allow the application.

3. Per contra, the Defendant has filed detailed objection stated that, The Plaintiff has filed a suit seeking Rs. 5,20,797/- with 18% interest and costs. They have also filed a frivolous application under Order XI Rule 1(5) of CPC, which the Defendant contends is vexatious and legally unsustainable. The

Com.OS.No.1045/2024

suit revolves around the Plaintiff's claim for services rendered related to importing materials from Shenzhen, China. The Defendant argues they have cleared all dues, including a deduction of Rs. 5,20,797/-, citing valid adjustments for disputed charges and prior claims. The Plaintiff's issuance of credit notes is disputed by the Defendant, who maintains the credits were voluntarily issued and not unilaterally canceled by them. The Defendant states they have provided sufficient evidence, and the Plaintiff's claim is unjustified. The Plaintiff now seeks to introduce additional documents, including the allegedly canceled credit note, which were not produced with the plaint. The Defendant argues this is a deliberate attempt to fabricate evidence, as the Plaintiff previously swore under oath that all documents in their possession had been provided. This inconsistency casts doubt on the Plaintiff's credibility and warrants rejection of their application. The Plaintiff's claim of "oversight" for not producing the documents earlier is deemed unreasonable. Additionally, the Plaintiff has not followed proper procedure under the Commercial

Com.OS.No.1045/2024

Courts Act, 2015, specifically Order XI Rule 1(2), for document disclosure. Repeated applications of this nature, after being dismissed on merits, are seen as an abuse of the legal process to waste the Court's time. Hence, prayed to dismiss the application.

4. I have heard the arguments of the learned advocate for the Plaintiff and the Defendants. The Advocate for the Defendant has relied following citations:

1. In **MANU/WB/16/30/2024** between ***Fixopan Management Private Limited and Others vs. New India Assurance Co.***
2. **MANU/MH/3854/2023** between ***Khanna Rayon Industries Private Limited vs. Swastik Associates and Others***
3. **2021 (13) SCC 71** between ***Sudhir Kumar vs. Vinay Kumar G.B.***
4. **2024 (4) SCC 432** between ***Kusha Duruka vs. State of Odisha***

Com.OS.No.1045/2024

5. Based on the contentions of the respective parties, submissions made by the learned Advocates for both parties, I formulate the following Points for my consideration:-

1. Whether the Plaintiff has made out grounds to allow the application ?
2. What Order?

6. My findings are as follows:-

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

Point No. 2: - As per my final orders for the following reasons.

REASONS

7. Point No. 1: - The plaintiff has filed this application for production of documents i.e., The downloaded copy of the email sent by the Defendant to the plaintiff along with ledger attachment. The Download copy of Bank statement of the Plaintiff. The original canceled credit note No. 5 to 8 dated 16.09.2023. The said documents were not produced along this plaint. Due to oversight even the plaintiff has not filed the documents.

Com.OS.No.1045/2024

8. I have gone through the reasons assigned by the plaintiff in affidavit and objection of the defendant along with citations relied by the defendant. It is fundamental duty of the plaintiff that he has to produce all the documents along with this plaint and the same has to be disclosed at the time of filing the suit. Further more, the Plaintiff has to make a statement and his Statement of Truth including documents. In the Statement of Truth, the plaintiff has stated in para No. 5 as thus:

Para No. 5 : "I say that all the documents which are in my power, possession, control or custody, pertaining to the facts and circumstance of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody in respect of the present case.

9. The above extract of para No.5 of the Statement of Truth clearly reveals that, all the documents which is in favour of in his custody, power, possession and control pertaining to the facts and circumstance of the proceedings initiated by the plaintiff against the defendant has produced. In the affidavit annexure along with I.A. No.3 the defendant has taken a contention that due to oversight he has not produced the

Com.OS.No.1045/2024

documents. Though, the documents are in his control, possession for the proper extract. Para No.3 of the Affidavit as thus:

Due to oversight, certain documents were not filed at the time of filing of the above suit. I now seek permission to produce the documents mentioned in the accompanying list. These documents are crucial and relevant to the adjudication of the present suit. Hence, I have filed the annexed application for permission to file the same.

10. By looking to the reasons assigned by the plaintiff in the affidavit that he has not produce the documents by oversight. Even though these documents are in his custody.

11. The Judgment relied by the Defendant in ***MANU/WB/1630/2024, Fixopan Management Private Limited and Others vs. New India Assurance Co. Limited***, wherein, Hon'ble Calcutta High court held in para 11 as below:

11. As already indicated that a bare perusal of the Order XI Rule 1(5) mandatory requires the plaintiff to establish a reasonable cause for non- disclosure of the document along with plaint. It is found that the only reason stated in the

Com.OS.No.1045/2024

application for failure to disclose the documents proposed to be disclosed by way of the present application are a coincidental mistake and/or inadvertent error which were neither deliberate nor intentional. Reasonable cause within the meaning of Order XI Rule 1(5) of the Code cannot be extended to negligence in filing of documents before the Court. Reasonable cause necessarily must refer to a cause which was outside the control of the petitioner and which prevented the petitioner from filing the concerned documents along with the plaint.

12. As per the above extract of the judgment, the plaintiff has to explain the reasonable cause for non-production of the documents along with plaint. It is the mandatory requirement for the plaintiff to place on record list of documents and photocopies of all documents in its power, possession, control or custody at the time of filing of the suit. In urgent filings, the plaintiff can seek leave to rely on additional documents as per Order XI Rule 1 (4). However, the plaintiff has not given proper explanation and not sought for the relief by urgent filing of the suit. The ratio laid down by Hon'ble High Court of Bombay in **MANU/MH/3854/2023 Khanna Rayon Industries Private Limited vs. Swastik**

Associates and Others wherein, Hon'ble Bombay High Court held in para 30 and 31:

A bare perusal of the above quoted provision shows the mandatory requirement for the plaintiff to place on record list of documents and photocopies of all documents in its power, possession, control or custody at the time of filing of the suit. In urgent filings, the plaintiff can seek leave to rely on additional documents, with such additional documents also required to be filed within thirty days of filing of the suit as per Order XI Rule 1 (4). In the present case, the said provision is not applicable and the only provision under which the applicant can place on record a document which was in its power, possession, control or custody at the time of filing of the suit but was not filed along with the plaint, is Order XI Rule 1 (5), as applicable to the commercial courts. The said provision mandatorily requires the applicant/Plaintiff to establish a reasonable cause for non-disclosure of the document along with the plaint.

The Supreme Court in the case of Sudhir Kumar alias S. Baliayn Vs. Vinay Kumar G.B. (supra) has referred to the strict requirement of Order XI Rule 1(5) of the CPC in the context of commercial

Com.OS.No.1045/2024

suits and after referring to such strict requirement, the Supreme Court held in the said case that the Plaintiff therein could not be permitted to contend that it had reasonable cause for non-disclosure/filing of the documents along with the plaint, on the ground that the documents were voluminous. In a series of judgments i.e. Rishi Raj Vs. Saregama India Ltd. (supra), Anita Chhabra & Ors. Vs. Surender Kumar ar (supra), Saregama India Limited Vs. Zee Entertainment Enterprises Limited (supra) and Nitin Gupta Vs. Texmaco Infrastructure & Holding Limited (supra), the Delhi High Court has applied the rigor of Order XI Rule 1(5) of the CPC in commercial suits in various circumstances to examine as to whether the Plaintiffs therein had made out reasonable cause for non-disclosure of documents with the plaint. It was found that when the Plaintiff failed to place on record proper reasons and reasonable cause, permitting additional documents to be placed on record at any stage, although they were in the power, possession, control or custody of the Plaintiff, would make a complete mockery of Order XI of the CPC, as made applicable to commercial suits. It was found that reasonable cause would have to be specifically pleaded and only when good cause was

Com.OS.No.1045/2024

made out that the Plaintiff could be permitted to place on record such documents at a later stage. It was held in the said judgments that leniency in such matters would run counter to the very object and purpose for which such amendments in the CPC were introduced by the Commercial Courts Act.

13. Order 11 Rule 1 clearly mentioned about disclosure, discovery and inspection of documents in suits before the Commercial Division of a Hon'ble High Court or a Commercial Court. Order 11 speaks as thus:

The written statement or counterclaim shall set out details of documents in the power, possession, control or custody of the plaintiff, which the defendant wishes to rely upon and which have not been disclosed with the plaint, and call upon the plaintiff to produce the same.

Order 11 Rule 1 (3) provides that the plaint shall contain a declaration on oath from the plaintiff that all documents in the power, possession, control or custody of the plaintiff, pertaining to the facts and circumstances of the proceedings initiated by him have been disclosed and copies thereof annexed

Com.OS.No.1045/2024

with the plaint, and that the plaintiff does not have other documents in its power, possession, control or custody. As per the explanation under Order 11 Rule 1 (3) a declaration on oath under this sub-rule shall be contained in the statement of truth. In the present case, the Statement of Truth the appendix by the plaintiff were clearly reveal that he has produced all the documents.

14. In 2021 (13) SCC 71 Sudhir Kumar vs. Vinay Kumar G.B, wherein, Hon'ble Supreme Court held in Para.No. 10.4:

Now, so far as the other documents sought to be relied on/produced as additional documents other than the invoices are concerned the same stands on different footing. It is not disputed and in fact it was specifically admitted and so stated in the application that those additional documents other than the invoices were in their possession but not produced being voluminous and that the suit was filed urgently. However, it is to be noted that when the second suit was filed, it cannot be said to be urgent filing of the suit for injunction, as the first suit was filed in the month of October, 2018 and there was an ex-parte ad interim injunction vide order

Com.OS.No.1045/2024

dated 29.10.2018 and thereafter plaintiff withdrew the said first suit on 27.07.2019 with liberty to file a fresh suit as per the Commercial Courts Act and the second suit came to be filed on 31.08.2019 after period of one month of the withdrawal of first suit. Therefore the case on behalf of the plaintiff that when the second suit was filed, it was urgently filed therefore, the additional documents sought to be relied upon other than the invoices were not filed as the same were voluminous cannot be accepted. And therefore as such Order XI Rule 1 (4) shall not be applicable, though the application was filed within thirty days of filing of the second suit. While seeking leave of the court to rely on documents, which were in his power, possession, control or custody and not disclosed along with plaint or within the extended period set out in Order XI Rule 1 (4), the plaintiff has to establish the reasonable cause for non disclosure along with plaint.

15. By relying above judgment it is clear that, the plaintiff has not assigning proper reason in his affidavit. Further Statement of Truth has been submitted by the plaintiff along with this plaint

wherein he has to disclosed everything, that should be a truth.

16. In **2024 (4) SCC 432, Kusha Duruka vs. State of Odisha** wherein Hon'ble Supreme Court held in para No.6 about the truth.

It was held in the [judgments referred to above](#) that one of the two cherished basic values by Indian society for centuries is "satya" (truth) and the same has been put under the carpet by the petitioner. Truth constituted an integral part of the justice-delivery system in the pre-Independence era, however, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In the last 40 years, the values have gone down and now a litigants can go to any extent to mislead the court. They have no respect for the truth. The principle has been evolved to meet the challenges posed by this new breed of litigants. Now it is well settled that a litigant, who attempts to pollute

Com.OS.No.1045/2024

the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final. Suppression of material facts from the court of law, is actually playing fraud with the court. The maxim *suppressio veri, expressio falsi*, i.e. suppression of the truth is equivalent to the expression of falsehood, gets attracted. Its nothing but degradation of moral values in the society, may be because of our education system. Now we are more happy to hear anything except truth; read anything except truth; speak anything except truth and believe anything except truth. Someone rightly said that 'Lies are very sweet, while truth is bitter, that's why most people prefer telling lies.'

17. It is the duty of the plaintiff to explain the difficulties for non-production of the documents at the time of filing the suit. Without there being any permission and proper explanation. The plaintiff has filed this application is not maintainable. In view of the above said reason, I am considering view that, the application filed by the plaintiff is deserves to be dismissed. Hence, the Plaintiff has not made out

Com.OS.No.1045/2024

any grounds to allow the application. Hence, I answer this point in the **Negative**.

18. Point No.2: Accordingly, I pass the following;

ORDER

The I.A. No.3 filed by the Plaintiff under Order 11 Rule 1 (5) read with Section 151 of CPC is hereby dismissed.

(Dictated to the Stenographer, typed by her, verified and corrected by me and then pronounced by me in open Court on this the **24th day of March 2026**).

**(VIDYADHAR SHIRAHATTI),
LXXXII Addl.City Civil & Sessions Judge,
Bengaluru.**