

KABC170022942023



**IN THE COURT OF LXXXVI ADDL. CITY CIVIL & SESSIONS  
JUDGE, COMMERCIAL COURT, BENGALURU (CCH-87)**

**Dated on this the 29<sup>th</sup> day of November, 2025**

**Present: Sri. Jithendranath C.S., B.A., LL.M.,**  
LXXXVI Addl. City Civil & Sessions Judge,  
Bengaluru.

**COM.O.S.No.1104/2023**

**BETWEEN:**

**PLAINTIFF : M/s. Mangalore Chemicals & Fertilizers  
Limited**

*(By Sri.Uday Shankar.R.M., advocate)*

**-Vs -**

**DEFENDANTS : Pavithra Agency & Anr.**

*(By Sri Suresh Kumar.N., advocate)*

**In I.A.Nos.3, 4 & 6**

IA No.3: under Order XVIII Rule 17 read with Section 151 of CPC.

IA No.4: under Section 151 of CPC.

IA No.6: under Order XI Rule 5 read with Section 151 of CPC.

**Between:**

**APPLICANT M/s. Mangalore Chemicals & Fertilizers  
Limited**

*(By Sri.Uday Shankar.R.M., advocate)*

**AND**

**OPPONENT : Pavithra Agency & Anr.**

*(By Sri Suresh Kumar.N., advocate)*

**Order on I.A.Nos.3, 4 & 6**

The plaintiff filed this suit seeking recovery of Rs.26,03,128/- and interest of Rs.12,74,835/- in all Rs.38,77,963/- from the defendants on the assertion that the plaintiff has supplied goods to the defendants and raised invoices but the defendants have not paid the price of the goods. After completion of the pleadings, this court has framed issues. The parties to the suit have adduced their respective evidences. When the matter was posted for arguments on merits, advocate for plaintiff filed IA.No.3 under Order XVIII Rule 17 read with Section 151 of CPC, to recall PW.1 for further chief examination. IA.No.4 under Section 151 of CPC, to reopen the stage for further chief examination and IA.No.6 under Order XI Rule 5 read with Section 151 of CPC, along with four documents. Out of them, the document at Sl.No.4 is the Certificate under Section 63 of BSA.

**2.** Learned counsel for the defendant has filed his objections *inter-alia* contending that the plaintiff has not disclosed these documents in their plaint, the evidences are already over, at this belated stage, these documents cannot be produced etc.

3. The court has heard both the sides.

4. Learned counsel for the plaintiff submitted that though the IA.No.6 is filed under Order XI, Rule 1(5) of CPC, as applicable to commercial suits, the same may be considered as one filed under Order XI Rule 1 (1) (c) of CPC.

5. The points arises for the court's consideration are as under:

1. Whether the plaintiff has made out valid grounds to produce the proposed documents. If so, whether the PW.1 be recalled for the purpose of further examination?
  2. What Order?
6. My answer to the above points are as under:

Point No.1 : In the **affirmative**,

Point No.2 : As per the final order

for the following;

### **REASONS**

#### **Point No.1:-**

7. Learned counsel for the plaintiff submitted that in the cross-examination of PW.1, learned counsel for the defendant asked him that he has not produced all the transaction particulars made with the defendant. Learned counsel submitted that in order to prove the entire transaction, the

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plaintiff has produced additional document No.1, i.e., submission of accounts for the period 01.01.2016 to 23.08.2024. She submits that the plaintiff to prove its claim has produced certain invoices. In order to clarify the doubts raised by the defendant plaintiff has produced two more invoices along with IA.No.6 and hence the same may be allowed. She submitted that the production of those invoices are significant to establish the irregularities in Ex.D.1 to D.9. Learned counsel has relied upon the decision of Hon'ble High Court in the cases of **10679/2025 (GM-CPC) between M/s.JSM Corporation Private Limited Vs M/s.Brunton Developers and Anr.** The learned counsel for the defendant seriously objected IA.No.6 on the ground that although had in its possession at the time of filing of the suit, the plaintiff has not produced these documents. He contended that as per Order XI, Rule 1 of CPC, the plaintiff shall produce all the documents which are in its power, possession, control or custody. The plaintiff has not produced the documents at the time of filing the suit or during the extended period of 30 days. The plaintiff has not disclosed the reasonable cause for non-disclosure, along with the plaint and therefore, the plaintiff is not entitled to produce the documents. Learned counsel has cited the decision of the Hon'ble Supreme Court

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in ***Sudhir Kumar @ S.Balilan*** Vs. ***Vinay Kumar G.B.***, in ***(Civil Appeal)No.5020/2021***. The plaintiff claiming the principal sum of Rs.26,03,128/- on the basis of 17 invoices, more fully described in paragraph No.10 of the evidence affidavit. The additional invoices bearing Nos.795110460 for Rs.2,65,000/- and invoice No.003133009037 for Rs.97,246.80, do not find place in the list of invoices described in paragraph No.10. Since the plaintiff is not claiming the price covered under the additional invoices, there was no occasion for the plaintiff to produce these two invoices. These two invoices have been produced only in order to clarify the doubt raised by the defendant, in the cross-examination of PW.1. If the defendant makes any attempt to shake the credit of the witness or the creditability of the documents produced by the plaintiff, the court shall give a reasonable opportunity to the plaintiff to substantiate the correctness/credibility of its evidence/documents. The proposed documents are corroborative in nature or not a substantive piece of evidence to prove the case of the plaintiff. Therefore, the present situation does not fall within the ambit of Order XI Rule 1 of CPC, but it may fall within the ambit of Order XI Rule 1(1)(c) of CPC, as applicable to Commercial Courts. In this case, the defendant has not raised any

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specific defense except denying their liability. On the basis of the documents produced by the plaintiff, the defendants attempted to shake the credit of those documents. In order to substantiate the trustworthiness of the documents already produced, the plaintiff has produced the additional documents. Therefore, this court is of the humble opinion that the decision rendered by the Hon'ble Supreme Court in ***Sudhir Kumar's case***, (Supra), cannot be made applicable to the present circumstances.

8. For the aforesaid reasons, the court proceed to pass following:

**ORDER**

IA Nos.3, 4 & 6 are hereby allowed.

The plaintiff is permitted to produce the additional documents and also mark those documents through PW.1.

The defendants are at liberty to file their additional statement of admissions and denials of the documents.

For the additional statement of admissions and denials by 11.12.2025.

[Dictated to the stenographer, transcribed by her, corrected and signed by me then pronounced in the Open Court, dated this the **29<sup>th</sup> day of November, 2025**]

**(JITHENDRANATH C.S.)**  
**LXXXVI Addl. City Civil & Sessions Judge,**  
**(Commercial Court), Bengaluru.**