

KABC170022942023



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

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

COM. O.S. No.1104/2023

Dated on this the 22nd day of January, 2025

PLAINTIFF M/s. Mangalore Chemicals and
Fertilizers Ltd.

(Reptd. by Sri. U.S.R.M. Advocate)

Vs.

DEFENDANTS Pavithra Agencies and another

(Reptd. by Sri. K.B.M., Advocate)

ORDERS ON I.A. No.1

The plaintiff allegedly supplied goods to the defendants and allegedly raised invoices. According to the plaintiff, as per the account maintained by him, the defendants are liable to pay the outstanding dues of Rs. 26,03,128.46. plaintiff added interest of Rs.12,74,835/- and filed the present suit seeking a decree for a sum of Rs.38,77,963.23. On 07.12.2023, the defendants filed the written statement, but not produced any documents. On 17.01.2024, they filed

statement of admissions and denials of the documents produced by the plaintiff. Subsequently, issues were framed and the plaintiff led his evidence. When the matter was posted for defendants' evidence, the defendants filed I.A.No.1 under order XI Rule 1(10) of CPC along with document No.1 to 29.

2. Advocate for the plaintiff filed detailed objections and requested the court to reject the application of the defendants.

3. The court has heard both the sides on this application.

4. The following points arise for court's consideration,-

1. Whether the defendants have made out sufficient grounds for belated production of documents ?

2. What order ?

5. My answer to the above points are as under;

Point No.1 : In the Negative

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

REASONS**Point No.1 :**

6. Order XI of CPC, as amended under Section 16 of Commercial Courts Act, deals with disclosure, discovery and inspection of documents in the suits before the Commercial Courts. As per Order XI Rule 1(7) of CPC, the defendant shall file a list of all documents and photocopies of all documents in its power, possession, control or custody pertaining to the suit along with the written statement including the documents referred to and relied upon by the defendant in the written statement and also the documents relating to any matter in question in the proceeding, in the power, possession, control or custody of the defendant. In the present case, the defendant, as noted earlier, has not produced any documents along with the written statement and they have not disclosed whether they are having possession of any such document. Order XI Rule 1(10) imposes a legal obligation on the court that the defendant shall not be allowed to rely on documents which were in the defendant's power, possession, control and custody and

not disclosed along with the written statement, save and accept by leave of the court and such leave shall be granted only upon the defendant establishing reasonable cause for non-disclosure along with the written statement. In the present case, the I.A. No.1 is accompanied with an affidavit sworn to by Sri. Suresh Kumar N., the proprietor of defendant No.1. In his affidavit, he simply stated that if his application for production of additional documents is allowed, it will not cause any loss or hardship to the plaintiff. On the contrary, if this application is not allowed, he will be put at great loss and injustice. The defendant has not followed the procedure contemplated under Order XI of CPC as amended under Section 16 of the Commercial Courts Act. The defendant at the fag end of the case simply dumped as many as 29 documents even without disclosing their relevancy. He has not proved that who was in possession of those documents all these days. In the absence of the proper reasons, the court cannot permit the defendant to produce the documents at belated stage.

Point No.2 :

7. For the forgoing reasons, the court proceed to pass the following ;

ORDER

I.A.No.1 filed by the defendants under Order XI Rule 1(10) of CPC is hereby rejected.

(Dictated to the Stenographer, transcribed by him, corrected and then pronounced by me in the open court on **22nd day of January 2025**).

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