

KABC170023602023



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

**THIS THE 7<sup>th</sup> DAY OF JANUARY 2026**

**PRESENT:**

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

**Com.OS.No.1137/2023**

**Plaintiff:-**

**Varun Enterprises,**

No.8 & 9, 1<sup>st</sup> Main, 1<sup>st</sup> Block,  
2<sup>nd</sup> Stage, RMV Extension,  
Ashwath Nagar, (Dollars Colony),  
Bangalore-560 094.

Rep by its Proprietor,

Mr. Karthik K. S/o Krishnappa,

Age 38 years,

Mobile No.9620901468

Email: varunenterprises91@gmail.com

**(Rep by Sri. D.P Ashok -Adv)**

V/s

**Defendants:- 1. M/s B.E Contracts Private**

**Limited**, 11-C, Vandhana,  
11 Tolstoy Marg,  
New Delhi-11001,  
Rep by its Managing Director,  
Mr. Sanjay Gujral,  
Mobile No.919810049119,  
Email: [bharatelectricals2007@yahoo.co.in](mailto:bharatelectricals2007@yahoo.co.in)

Also at:-

**M/s B.E Contracts Private Limited**,  
No.406, 4<sup>th</sup> Floor,  
H.M Geneva House, 14,  
Cunningham Road,  
Sampang Ramaswamy Temple Street,  
Bangalore-560052.

**AND OTHERS.**

**(Rep by M.G. Kumar Law Firm-Adv for D1 to 3  
& 5) (D4- Abated)**

**PARTIES TO IA.NO.V**

**Applicants/** B.E. Contracts Pvt Ltd., & Ors.,  
**Defendants:**

**V/s**

**Opponent/** Varun Enterprises.  
**Plaintiff:**

(i)	Provisions under which the application is filed	U/Or.12 Rule 6 of CPC
(ii)	Relief sought for	To pass a judgment on the admissions of the plaintiff and dismiss the suit.

(iii)	The date on which the application is filed	28.08.2025
(iv)	Number of the application	1
(v)	The date on which the objection is filed by opponent	By Plaintiff on 24.09.2025
(vi)	The date on which the orders were passed on the said application	07.01.2026

### **ORDER ON IA No.V**

The defendants have filed above application Under Order 12 Rule 6 of CPC seeking to pass a judgment based on the admissions of the plaintiff and dismiss the suit accordingly.

2. It is averred in the affidavit of Authorized Signatory of defendants filed in support of application that, plaintiff has instituted present suit for recovery of Rs.1,28,16,076/- for alleged non-payment of invoice dues. Defendant No.1 company denies such dues and all dues have been cleared by said company against all invoices. Further defendants have narrated issues framed in this case in the

application and further averred that the plaintiff has examined its' sole Proprietor as PW1 and at the outset in para No.4, PW1 has admitted that the amount claimed in demand notice is different from amount claimed in plaint. In demand notice claim of Rs.67,97,126/- is made and in plaint an amount of Rs.1,28,16,076/- is claimed by plaintiff. Hence when there is no demand, there is no cause of action and amount cannot be claimed. It is further averred that PW1 claims to have been doing business since 2015-16 with defendants and in para No.5 of cross examination he has admitted that there was running (which appears to be running account) with defendant No.1 and it was closed in the year 2020 or 2021. Further, it clearly shows that there was no balance payable by defendants and all payments were cleared and closed in 2020-21 itself.

**3.** It is further averred that ten invoices raised in the suit are from 23.07.2020 to 14.12.2020. In para No.8 of cross examination, PW1 has admitted that there is no challan of delivery, but plaintiff takes

signature on invoices and if rubber stamp/seal is available, they would take seal on invoices. However PW1 has admitted that there is no seal or signature on Ex.P9 invoice. Hence said invoice is fabricated and does not pertain to defendant. It is further averred that PW1 has admitted that Ex.P10, 12 and Ex.P14 do not bear official seal of defendant No.1 and there is seal affixed thereon as Urban Project Private Ltd., which is not defendant No.1 company. Further Ex.P20 invoice refers a purchase order relating to "Amazon BLR", which has no nexus with defendant. Hence invoices do not pertain to defendants and alleged goods were not delivered. Hence the invoices are concocted and false claim is foisted upon defendants.

**4.** It is further averred that PW1 admits that there are no purchase orders for corresponding invoices and at para No.11 he admits that there is no purchase order entry for Ex.P11 and Ex.P13 invoices. Further in para No.13 he has admitted that, there is no purchase order produced by him at all, which

clearly establishes that there was no purchase order placed against invoices.

**5.** It is further averred that defendant had admitted during cross-examination that they have made payment to plaintiff's concern. In para No.16 of cross examination PW1 states that between 11.09.2020 to 15.03.2022 only Rs.45 Lakhs is paid by defendants as indicated in para No.4 of his evidence. Further in same paragraph PW1 admits that as per Ex.P26 ledger defendants had paid Rs.20 Lakhs on 28.07.2020 and Rs.20 Lakhs on 04.08.2020. PW1 further admits in para No.16 that, during period between 23.07.2020 to 15.03.2022 they have received total amount of Rs.1,38,95,233/-. This categorical admission strikes at very foundation of plaintiff's case that alleged invoices raised between 23.07.2020 and 14.12.2020 for total sum of Rs.1,13,52,024/- have received total payment of an aggregate sum of Rs.1,38,95,233/- during the period 23.07.2020 to 15.03.2020. Hence the question of further liability or subsisting claim against defendants

does not arise. It is further averred that there is no agreement or email pertaining to interest and it is only created the invoices. Further in para 18 of cross examination, PW1 states that majority of time Aggarwal used to visit along with son and daughter in law, but defendants are not Aggarwal and in no manner they are related to said Aggarwal. Hence plaintiff has instituted a false and bogus claim against defendants. Further PW1 has admitted that it was accountant of plaintiff company who maintains accounts and as per Ex.P19, the PDC means Post Dates cheques which are collected from defendants as per plaintiff's own documents. Further PW1 when suggested if he supplies goods without taking a security cheques, he deposes that it is false that they would supply goods without taking security cheque. Hence it is clear that plaintiff had collected the cheque at the time of issuance of goods, but misused the cheque given for security purpose. It is further averred that invoices produced by plaintiff do not tally with claim and they do not match with purchase

orders. There are contradictions in plaintiffs' pleadings, depositions and documents marked. Admissions of PW1 show that he does not know who has paid and for what invoices purchase orders were issued and what amount were received. The case is entirely vague, fake and liable to be dismissed. Hence admissions of PW1 indicate that, plaintiff has miserably failed to prove the alleged dues and present suit is instituted on the basis of fabricated invoices which do not correspond to the case of plaintiff and it is unjustly attempting to enrich itself on the basis of cheques withheld for security purpose. Hence in view of admissions on PW1, continuation of present suit would be a futile exercise and it is a fit case to invoke power under Order XII Rule 6 CPC. These amongst other grounds, it is prayed to allow the application.

**6.** The Plaintiff has filed the objections to above application, wherein its averred that, the application is not maintainable and same is liable to be dismissed in limine. The application is filed to drag on

the proceedings and same cannot be entertained when matter is set down for arguments on main suit. Further if really defendants have any grievance on alleged admissions as claimed in the application, they may take advantage of the same during course of arguments and now at the stage of arguments plaintiff cannot be permitted to file such applications. It is further averred that defendant No.3 has filed above application on behalf of defendant No.1, 2 and 5 without authorization to swear the affidavit. Further plaintiff has reiterated averments of plaint in brief and he has also narrated dishonour of cheque issued by defendants, filing of CC No.28204/2022 on the file of 15<sup>th</sup> ACMM Court and filing of Crl.Misc.Pet No.2978/2023 by defendants seeking to quash criminal proceedings, which is pending for consideration. It is further averred that defendant has filed written statement, PW1 has been examined and cross examined by defendants side substantially. Subsequently by considering question posed by counsel for defendants, the court rejected such

questions as same were not relevant and despite giving sufficient opportunity to defendants, they filed transfer petition before Principal City Civil & Sessions Court under No.970/2024 alleging bias against defendants. The Hon'ble Principal and Sessions Court dismissed the said petition. Thereafter defendant did not chose to further cross examine PW1 and hence the court closed cross examination of said witness. Subsequently upon application filed by defendants, PW1 was fully cross examined on payment of costs. When matter was posted for defendants' side evidence, defendants have come up with present application after taking 2-3 adjournments. Further prior to filing of present application to drag on the proceedings, defendants filed another application to delete name of defendant No.2 to 5 from suit under IA No.2. After considering the objections, the court rejected the said application vide order dtd.28.03.2024 and defendants filed WP No.10331/2024 before Hon'ble High Court of Karnataka. Defendants filed one more application

under IA No.3 for rejection of plaint and said application was also dismissed by order dtd.20.06.2024 and same was not challenged by them. The above aspects clearly shows that defendants have no cause to fight on merits and they have come up with false and frivolous applications. Further at the time of issuance of legal notice plaintiff asserted to clear part payment of Rs.67,97,126/- and defendants have issued cheque and upon dishonour of said cheque, plaintiff issued legal notice demanding to pay cheque amount with interest at the rate of 24%. Now defendants are trying to misuse the legal proceedings and they are trying to mislead the court by misrepresentation of documentary and oral evidence.

**7.** It is further averred that PW1 has clearly deposed in his evidence that, an amount of Rs.1,38,95,233/- was received by plaintiff from defendants was adjusted to earlier invoices, but now defendants are trying to mislead the court. Therefore plaintiff has adjusted the amount by maintaining the

ledger accounts and as such plaintiff do not mean that defendants have paid entire due amount. The plaintiff have denied the entire averments of application and affidavit filed by defendants and these amongst other grounds, it is prayed to dismiss the application with exemplary costs.

8. The following points arise for consideration:

***1. Whether defendants have made out grounds to pass judgment based on the admission under Order XII Rule 6 of CPC, as prayed for in the application?***

***2. What order?***

9. Heard arguments of both sides. Perused records.

10. The following findings are on above points:

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

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

### **REASONS**

11. **Point No.1:-** The The plaintiff has filed present suit against defendants for the relief of recovery of

Rs.1,28,16,076/- together with future interest at the rate of 24% per annum from the date of suit till the date of payment. It is specific case of plaintiff that, defendants are liable to pay outstanding amount of Rs.1,13,52,024/- towards supply of electric materials under ten invoices. It is further case of plaintiff that, the cheque issued by defendants for sum of Rs.67,97,126/- on 04.05.2022 was dishonoured and hence they are constrained to file present suit for recovery of aforesaid amount with interest. On the other hand defendants have appeared before court, defendant No.1 has filed written statement and same is adopted by defendant Nos.2 to 5. The defendants have denied their liability to pay the suit claim and they have prayed for dismissal of the suit on exemplary costs. Now evidence of plaintiff is concluded and when matter was posted for the evidence of defendants as final chance on 28.08.2025, counsel for defendants has submitted that defendants have no evidence and defendants have filed present application seeking to pass

judgment on alleged admission on part of PW1. Thereafter defendants have filed I.A.No.6 u/s. 151 CPC on 17.09.2025 seeking to recall order dated 28.08.2025 and to permit them to lead evidence. Said application is allowed on 24.09.2025. Hence it shows that defendants Mo.1,3 to 5 are sailing in two boats. At one stage they seek to pass judgment on admission and at the other stage, they wish to lead their evidence.

**12.** Further in present application, defendants have reiterated the various so called admissions from the mouth of PW1 during cross examination and assert that in view of such admissions the very case of plaintiff seeking recovery of aforesaid amount does not hold any water and it totally extinguishes the alleged liability of defendants to pay the suit claim. On the other hand, plaintiffs have seriously resisted the application on various grounds mentioned in their objections and they have specifically contended that the application is filed with sole intention to drag on the proceedings.

**13.** In support of present application, counsel for defendants has relied upon case laws and relevant portion of the head notes of the same are culled out as under:-

**(2000) SUPP 2 SCR between Uttam Singh Dugal and Co. Ltd., V/s United Bank of India & Ors.,**

“Admission. Judgment on defendant admitted liability in the Resolution and the minutes of meeting of its Directors. Said resolution was communicates to the plaintiff. **Defendant filed an affidavit in opposition in which the said liability was not denied. Held, when a statement of admission is brought before the court and the party is given sufficient opportunity to explain the admission but the court does not accept it, a decree based on the admission, can be passed.** Inference on the basis of the pleadings raised in the application under R.6 and the answering affidavit can be drawn. Hence High Court rightly passed a decree in respect of the admitted claim.”

**(2025) 6 SCR 210 between Saroj Salkan V/ s Huma Singh & Ors.,**

“Code of Civil Procedure, 1908 Ord.XII r.6, Ord.VII r.11 Judgment on admissions - Suit filed by the appellant u/s.6 of the 1956 Act for partition, injunction and accounts involving five properties, held by the appellant's father against the legal heirs of appellant's brother and his sister-respondent no. 6 -Parties

previously involved in declaratory suits regarding the properties - After completion of pleadings when the partition suit was listed for framing of issues, the Single Judge passed a decree dismissing the partition suit u/Ord.XII r.6 observing that no cause of action arises - Division Bench upheld the decree Correctness:

Held: Submission that the Single Judge could have dismissed the suit U/ord.VII R.11 alone and not U/ord.XII R.6 and that too without any application being filed by the respondents is untenable in law **Ord.XII r.6 gives a very wide discretion to the Court to pass a judgment at any stage of the suit and that too on its own motion, without any application being filed by any party - Ord. XII r.6 authorises the Court to not only pass a decree regarding admitted claim, but also to dismiss the suit-** On facts, the effect of the decrees in the declaratory suits, was that the appellant cannot go behind them in the present proceedings - Respondent no.6-sister estopped from contending that property B is owned by a co-parcenary/HUF of which she is a member - Furthermore, proviso to sub-section 1 of amended s.6 of the 1956 attracted to the instant case and submission by appellant and respondent no.6 with respect to s. 6 not applicable to the instant case - Also the suit to the extent it challenges ownership of Anand Niketan house is barred by limitation - Order passed by the High Courts upheld - Hindu Succession Act, 1956. [Paras 36-49]."

**14.** The ratio laid down in above case well founded and same cannot be disputed. Further, it is necessary

to refer Order XII Rule 6 CPC, which reads thus:-

**"6. Judgment on admissions.**

(1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn upon in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced."

**15.** However as rightly pointed out by plaintiff side, mere stray admissions in cross examination of a witness cannot be a ground to assume and presume the case of plaintiff and such evidence has to be evaluated with documentary evidence adduced by both parties. Further it is well settled principal, that admissions in pleadings stands on higher footings than oral admissions in evidence and in order to bring the admissions into purview of Order XII Rule 6 of CPC, the court has to consider unequivocal

admission of parties in pleadings and it cannot blindly rely upon oral stray admission of a witness without considering the surrounding circumstances and other corroborating evidence available on record. In present case plaintiffs have not given any such unequivocal admissions in pleadings and as such there is nothing to pass any judgment on such admissions. Moreover, in view of non leading of evidence by defendants, the suit has reached to the final stage and at this stage defendants cannot insist to pass judgment on admission at the fag end of proceedings. At the most defendant can definitely rely upon so called admissions of PW1 in support of their defence at the time of addressing final arguments on merits, but such admissions cannot be a sole ground to pass judgment on admissions that too at the fag end of the proceedings. Hence the circumstances of the present case does not warrant passing of judgment on alleged admissions at this stage. For these reasons application filed by defendants deserves to be rejected. Accordingly,

**Point No.1 is answered in the Negative.**

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

**ORDER**

**IA No.V under Order 12 Rule 6 of  
CPC filed by defendants is hereby  
rejected.**

**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 7<sup>th</sup> day of January 2026**]

**(ANAND T. CHAVAN)**

LXXXIV Addl.City Civil & Sessions Judge,  
Bengaluru.