

**IN THE COURT OF THE SENIOR CIVIL JUDGE &
JMFC, ARSIKERE**

DATED THIS THE 12th DAY OF JUNE 2025

Present: Sri.Kirankumar D.Wadigeri, B.A.L., L.L.B.,
Senior Civil Judge & JMFC.,
Arsikere.

O.S. No.47/2020

Plaintiff/
Applicant : Yadiyuru Sri Siddalingeshwara
Traders, Mandi Merchants and
Commission Agents, RMC Yard,
Arsikere. Represented by
Sri H.C. Panchakshari,
Proprietor, Aged about 63 years,
R/o Maruthi Nagara Extension,
Arsikere town.

(By Sri K.A.R., Advocate)

-V/s-

Defendant/
Opponent : Sri Renukacharya Traders,
Mandi Merchants
RMC Yard, Arsikere. Represented by
Sri T.C. Shekhar,
S/o Late Channaveeraiah,
Aged about 45 years,
R/o Lakshmipura Extension,
Behind Telephone Exchange,
Arsikere town.

(By Sri H.S.K., Advocate)

ORDERS ON I.A.No.6

The plaintiff has filed this application under Order 7 Rule 17
r/w 151 of CPC to permit him to produce the original books of

account before the office of this Court to tally the same with its copy.

2. The plaintiff in his affidavit filed along with this application has stated that, he has filed this suit on the basis of accounts and during the time of filing of the suit he has produced some documents but they ought to have been tallied before the office of this Court comparing with the original but due to Covid-19 he could not produce the original documents to tally the same along with their copies. Further, already he has filed interim application to permit him to produce the documents and same was allowed and now the defendant is objecting to mark those documents as they have not been tallied with the originals. Further, the counsel of the defendant has objected to produce those documents as the plaintiff has not complied the provisions of Order 7 Rule 17 of CPC but the entire suit is based on those documents and if he is not permitted to produce those documents, he will face much hardship and loss and only on the basis of procedural defects, the entire suit cannot be dismissed. Hence, it is prayed to allow I.A.No.6.

3. The defendant in his objections to this application has contended that in view of the provisions of Order 7 Rule 17 of CPC

the plaintiff should have produce the original documents before the office of this Court in order to tally the same along with the copies of the original documents. So, at this stage, plaintiff cannot be permitted to tally those documents along with the originals. Further, this application is barred by limitation and only in order to harass him the plaintiff has filed this suit and this application and hence, it is prayed to dismiss the application.

4. Heard both sides on I.A.No.6.

5. Then the following points arise for consideration of this Court are as under:-

1) Whether the plaintiff has made out sufficient grounds to allow I.A.No.6?

2) What order?

6. My findings on the above points are as under:

Point No.1 : In the **Affirmative**

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

REASONS

7. **Point No.1:** The plaintiff has filed the suit for the relief of recovery of sum of Rs.28,25,542/- along with interest @ 18% p.a. from the date of the suit till realization. This suit is filed on the basis of the books of accounts stating that he is running a shop in

the RMC yard and doing copra business. The defendant used to purchase copra from him and thus he is due of Rs.27,80,830/- and accordingly he filed the suit. However, in his pleadings he has stated that he has mentioned all the transactions held with the defendant in his daily ledger and credil bill and also stated that he has tallied those documents along with their copies but after perusal of the entire records, the plaintiff has not tallied the original documents before the office of this Court. Accordingly, the learned counsel of the defendant has objected while marking those documents as the plaintiff has not complied the provisions of Order 7 Rule 17 of CPC. **Order 7 Rule 17 of CPC which reads as follows:**

17. Production of shop-book. (1) *Save in so far as is otherwise provided by the Bankers' Books Evidence Act, 1891 (18 of 1891), where the document on which the plaintiff sues is an entry in shop-book or other account in his possession or power the plaintiff shall produce the book or account at the time of filing the plaint, together with a copy of the entry on which he relies.*

(2) *Original entry to be marked and returned- The Court, or such officer as it appoints in this behalf, shall forthwith mark the document for the purpose of identification, and, after examining and comparing the copy with the original, shall, if it is found correct,*

certify it to be so and return the book to the plaintiff and cause the copy to be filed.

No doubt, as per the said provisions of law, the plaintiff shall produce his books of accounts or any documents on which he is relying the alleged transactions held between him and the defendant but the plaintiff has already produced copies of those documents before the Court and this Court has allowed I.A.No.5 filed under Order 7 Rule 14 of CPC and permitted the plaintiff to produce the documents. No doubt, as per the said provisions of law, the plaintiff ought to have produced the same before the office of this Court while filing the suit but it is all the matter of procedural defects and only on that account the entire case of the plaintiff cannot be dismissed. On the other hand, the defendant is also having every chances to cross-examine the plaintiff and to rebut the case of the plaintiff and he can challenge those documents in the evidence of the plaintiff. So, on the basis of the technical or procedural defects, the plaintiff cannot be curtailed from producing those documents to tally the same along with the copies of the original documents as pleaded by the plaintiff. So, by imposing suitable costs on the plaintiff, he may be permitted to produce the documents before the Court in order to tally the same along with

copies of the documents. Hence, **my finding to point No.1 is in the Affirmative.**

8. **Point No.2:** In view of the reasons and finding given to point No.1, the following is made:

ORDER

I.A. No.6 filed by the plaintiff under Order 7 Rule 17 r/w 151 of CPC is hereby allowed on cost of Rs.500/-.

The plaintiff is permitted to produce the original documents in order to tally the same along with the copies of those documents before the office of this Court.

(Dictated to the Stenographer, transcribed and computerized by him, corrected and then pronounced by me in the open Court on 12th day of June 2025)

(Kirankumar D.Wadigeri)
Senior Civil Judge & JMFC,
Arsikere.