KABI090002042025

IN THE COURT OF III ADDITIONAL DISTRICT AND SESSIONS JUDGE (EXCLUSIVE DEDICATED COMMERCIAL COURT), AT BALLARI.

PRESENT: GUDI VASUDEV RADHAKANT,
B.Com., LL.M.,

III ADDL. DISTRICT & SESSIONS JUDGE (EXCLUSIVE DEDICATED COMMERCIAL COURT), BALLARI.

DATED THIS THE 03rd DAY OF JANUARY 2026

COM.ORIGINAL SUIT No. 40/2025

Plaintiff : Shakuntala Devi W/o. Kanthilal, aged about 59 years, Proprietor of Bafana Textiles, R/o. Door No.26, Jain Cloth Market, Mothi Circle, Ballari, represented by her GPA Holder Kanthilal S/o. Pokarchand, aged about 63 years, R/o. Door No.26, Jain Cloth Market, Mothi Circle, Ballari.

(By Sri.Thippeswamy.K, Advocate)

//Vs.//

Defendant : Aravind Garments represented by its Proprietor Tatte Aravind, S/o. Tatte Shivamurthy, Care of: Pavan Tatte, Chandrakala Rotti Point, R/o. #16-3-139-12/3, near Buden Sab Thota, Rayadurgam, Ananthapur District, Andhra Pradesh, PIN-515865.

(By Sri.C.Nagaraju, Advocate)

Date of Institution of Suit	**:**	**02.05.2025**
Nature of suit	**:**	**Suit for recovery of money**
Date of commencement of recording evidence	**:**	**17.10.2025**
Date of Judgment	**:**	**03.01.2026**
Total Duration	**:**	**Year/s Month/s Day/s** **-00- -08- -01-**

(GUDI VASUDEV RADHAKANT)
III ADDL. DISTRICT & SESSIONS JUDGE
(COMMERCIAL COURT), BALLARI.

J U D G M E N T

Plaintiff has filed the present suit for recovery of ₹11,70,529.50 along with interest @ 18% p.a. from the date of suit till realization of the entire claim amount.

2. **Contextual facts are as under:-**

It is averred by the plaintiff that it is running the business under the name and style as Bafana Textiles and Plaintiff is the Proprietor of the said firm. She is an age old woman and unable to appear before the court. Therefore, she has executed General Power of Attorney on 21.11.2016 in favour of her husband Sri.Kanthilal and authorized him to look-after the business, its affairs, to engage the counsel, to file the suit and for other ancillary purposes. Plaintiff and defendant are well known to each other from the past several years. Defendant was doing the business with the plaintiff and purchased the cloth materials for his readymade garments on various dates from 01.05.2019 to 22.03.2022 under different invoices as per the details given in para-2 of the plaint in the tabular form. As per this tabular form, defendant had purchased total cloth materials worth ₹23,99,749/- and made payment of ₹18,22,686/-. As on today, he is due to pay ₹5,77,063.50. As per the invoices, defendant has not made the payment within stipulated period. Therefore, he is liable to pay interest @ 18% p.a. Interest amount comes to ₹5,88,466/-.

3. Inspite of several demands, defendant has not made payment to the plaintiff. This compelled the plaintiff to got issue legal notice to him on 17.01.2025 calling upon him to pay the due amount within seven days. The postal cover addressed to defendant was returned to the sender with an endorsement as "No such person". Plaintiff again got issued notice to defendant on 29.01.2025, which was refused by the defendant. Defendant has failed to pay the due amount. These factors constrained the plaintiff to file

the suit before this court for invocation of Pre Institution Mediation as contemplated under Section 12-A of Commercial Courts Act, 2015 vide PIMS No.30/2025.

4. Defendant has appeared through his counsel in pursuance of suit summons and filed the Written Statement by traversing the entire contents of the plaint. It is contended that plaintiff has got fabricated the documents in his favour just to get the wrongful gain from the innocent defendant. Defendant is nothing to do with the plaintiff. Therefore, question of failing to pay the amount, postponement of payment of amount etc does not arise at all. Defendant is not at all indebted any amount to plaintiff. The so called claim under the so called bills is barred by time. There is no sanctity to the documents produced by the plaintiff. Plaintiff is put to strict proof of the averments made in the plaint. On these grounds, he sought for dismissal of the suit.

5. On the strength of these pleadings and on the basis of documents produced by both the parties, following Issues and Additional Issue are framed:-

1. Whether plaintiff proves that defendant is liable to pay ₹11,70,529.50 along with interest @ 18% per annum from the date of suit till realization of suit claim amount?

2. Whether plaintiff is entitled for the reliefs as sought for?

3. What order or decree?

Additional Issue framed on 10.11.2025

1. Whether suit is barred by law of limitation?

6. Trial consisted of examination of power of attorney holder of plaintiff as PW.1, who got exhibited the documents at Ex.P.1 to 13 and closed his side evidence.

7. On the contrary, defendant examined himself as DW.1. However, no documents are marked on his behalf and closed his side evidence.

8. Heard arguments of learned counsel for plaintiff at length. Learned counsel for defendant has filed written arguments. Scanned the oral as well as documentary evidence placed on record.

9. Upon hearing arguments and on scanning of the evidence placed on record, my findings to the above issues are as under:

Issue No.1: In the Affirmative

Issue No.2: In the Affirmative

Additional Issue No.1: In the Negative

Issue No.3: As per the final order, for the following:

R E A S ON S

REASONING ON ISSUE Nos.1 AND 2 :

10. These issues are inter-related to each other and involve common appreciation of evidence. Hence, to avoid repetition, these issues are taken together for common consideration.

11. Whether defendant is indebted to pay ₹11,70,529.50 to the plaintiff along with interest @ 18% p.a. is the centrilolar issue involved in the present case. Facts are sufficiently stated, there is no need of reiteration.

12. In order to substantiate the claim, power of attorney holder of the plaintiff examined himself as

PW.1 and reiterated the averments of the plaint in his examination-in-chief affidavit. In order to strengthen his case, he has produced Ex.P.1, which is certified copy of General Power of Attorney executed by plaintiff in his favour on 21.11.2016, authorizing him to prosecute the matter on her behalf. Ex.P.2 to 6 are the tax invoices issued by the plaintiff to defendant for purporting supply of cloth materials. Ex.P.7 is the ledger account maintained by the plaintiff in respect of defendant, which shows that defendant is liable to pay ₹11,52,257/-. Ex.P.8 and 11 are the copies of legal notices got issued by the plaintiff through his counsel on 17.01.2025 and 29.01.2025 calling upon him to pay the due amount within ten days. Ex.P.9 and 10 are the postal receipts for having sent the legal notices to defendant. Ex.P.12 and 13 are the postal covers addressed to defendant, which came to be returned to the sender with an endorsement as “No such person” and “Refused” respectively. Ex.P.12(a) and P.13(a) are the notices contained in these postal covers.

13. As against this, defendant examined himself as DW.1. His examination-in-chief is nothing but facsimile of his Written Statement averments. Defendant has not at all produced any documents in support of his defence.

14. As far as supply of cloth materials by plaintiff to defendant is concerned, it is unequivocally admitted by defendant in his cross-examination. Defendant, who is examined as DW.1 in his cross-examination has clearly admitted that from the year 2018 till 2022, he transacted with the plaintiff and purchased the cloth materials from him. He has also admitted his signatures on Ex.P.4 to 6 tax invoices. However, he states that he has made payment due under these invoices.

15. Even during the course of cross-examination of PW.1, it is suggested to him that defendant has made payment of entire due amount. By making this suggestion, defendant has impliedly admitted that upto the point of purported payment made by him, he is due to pay the amount to the plaintiff. When defendant takes up the defence that he has made payment of entire due amount to the plaintiff, heavy onus lies on him to prove the said fact with preponderance of probabilities. In this connection, it is relevant to place reliance on the decision of Hon'ble Supreme Court of India reported in **(2021) 20 SCC 257 (Anita Rani** *Versus* **Ashok Kumar and others)**, which reads thus:-

> *"27. As pointed out earlier, the respondents have admitted that the moneys as claimed by the appellant plaintiff were either paid by the plaintiff or flown out of the plaintiff's account into their own account. Therefore, the onus was actually on the respondents to prove either a discharge by way of settlement of accounts or the gratuitous nature of the payment. The respondents miserably failed to discharge the onus of proof so cast upon them. Hence, the plaintiff appellant is entitled to a decree despite a few discrepancies in her evidence, especially when the discrepancies have no bearing upon the payment/flow of monies from the plaintiff to the defendants."*

16. In the light of the principles emerging from this decision, it is incumbent on the defendant to prove the factum of payment of due amount by him. In the instant case, except self serving statement in his evidence and also making suggestion to PW.1, nothing is placed on record by him to establish that he has made payment of due amount to the plaintiff.

17. Be that as it may, let me assess the evidence from different stand point. Defendant in his Written Statement has specifically contended that documents produced by the plaintiff are of fabricated and got up

documents. Commercial Courts Act, 2015 is the complete code in itself as far as resolution of commercial disputes is concerned. After completion of pleadings of parties, there is a stage for admissions or denials as contemplated under Order XI Rule-4 of Code of Civil Procedure, 1908, as amended by Section 16 of Commercial Courts Act, 2015. The said provision is an important provision governing the rights of the parties. The said provision reads as under:-

> *"4. Admission and denial of documents.—(1) Each party shall submit a statement of admissions or denials of all documents disclosed and of which inspection has been completed, within fifteen days of the completion of inspection or any later date as fixed by the Court.*
>
> *(2) The statement of admissions and denials shall set out explicitly, whether such party was admitting or denying:—*
> *(a) correctness of contents of a document;*
> *(b) existence of a document;*
> *(c) execution of a document;*
> *(d) issuance or receipt of a document;*
> *(e) custody of a document.*
>
> *Explanation.––A statement of admission or denial of the existence of a document made in accordance with sub-rule (2)(b) shall include the admission or denial of the contents of a document.*

(3) Each party shall set out reasons for denying a document under any of the above grounds and bare and unsupported denials shall not be deemed to be denials of a document and proof of such documents may then be dispensed with at the discretion of the Court.

(4) Any party may however submit bare denials for third party documents of which the party denying does not have any personal knowledge of, and to which the party denying is not a party to in any manner whatsoever.

(5) An Affidavit in support of the statement of admissions and denials shall be filed confirming the correctness of the contents of the statement.

(6) In the event that the Court holds that any party has unduly refused to admit a document under any of the above criteria,–costs (including exemplary costs) for deciding on admissibility of a document may be imposed by the Court on such party.

(7) The Court may pass orders with respect to admitted documents including for waiver of further proof thereon or rejection of any documents."

18. As per this provision, each party shall submit a statement of admissions or denials of all documents disclosed and of which inspection has been completed,

within 15 days of the completion of inspection. Mere denial of document is not sufficient. Each party shall set out reasons for denying a document under any of the grounds. Bare and unsupported denials shall not be deemed to be denials of a document and proof of such documents may then be dispensed with. If any party has unduly refused to admit a document under any of the criteria mentioned in the said provision, the court may pass orders with respect of admitted documents, including for waiver or rejection of the documents. This provision enables the court to decide the dispute and also the possibility of identifying or eliminating a false statement. This provision is intended to narrow down the controversy between the parties.

19. Adverting to the factual scenario of the present case, even though defendant has filed the affidavit purporting to be filed under Order XI Rule 4 of Code of Civil Procedure, 1908, he has not at all either admitted or denied the documents produced by the plaintiff. His affidavit is nothing but the statement of truth as contemplated under Order VI Rule 15-A of Code of Civil Procedure, 1908 (As amended by Commercial Courts Act, 2015). It cannot be considered as affidavit in compliance of Order XI Rule 4 of Code of Civil

Procedure, 1908 as amended by Commercial Courts Act, 2015. Therefore, defendant has failed to comply the mandatory provisions of Order XI Rule 4 of Code of Civil Procedure, 1908. Under these circumstances, the resultant position is that defendant has impliedly admitted the documents produced by the plaintiff and he waived of further proof of those documents.

20. Defendant has also questioned the locus-standi of PW.1 to represent the plaintiff. During the course of cross-examination of P.W.1, it is suggested to him that he is elder to plaintiff and the power of attorney marked at Ex.P.1 is invalid. Of course PW.1 has denied these suggestions. As discernible from the records of the case, PW.1 is none other than the husband of the plaintiff. As per Section 120 of Indian Evidence Act, 1872 equivalent to Section 126 of Bharatiya Sakshya Adhiniyam, 2023, in all civil proceedings, the parties to the suit and husband or wife of any party to the suit shall be competent witnesses. Under these circumstances, even for a moment assuming that Ex.P.1-General Power of Attorney is excluded from judicial consideration, still then PW.1 being the husband of the plaintiff is the competent witness to testify. Therefore, contentions raised by the defendant in this connection do not hold any water.

21. This court is not oblivious of the fact that as per Section 34 of Indian Evidence Act, 1872 equivalent to Section 28 of Bharatiya Sakshya Adhiniyam, 2023, the entries in the books of accounts regularly kept in the course of business are relevant whenever they refer to a matter into which the court has to inquire, but such statement shall not alone be sufficient evidence to charge any person with liability. In the present case, entries in Ex.P.7-Ledger account are supported by Ex.P.2 to 6, which are admitted by defendant in his cross-examination.

22. Evidently, the transactions between the plaintiff and defendant are commercial transactions. The stipulations contained in Ex.P.2 to 6-Tax invoices impose interest @ 18% p.a. from the date of invoices. Under these circumstances, the plaintiff is entitled for interest @ 18% p.a. being contractual rate of interest. Hence, Considering all these aspects of the case and totality of the circumstances, the plaintiff has established that defendant is liable to pay ₹11,70,529.50 along with interest @ 18% p.a. from the date of suit till realization of the entire amount. With these observations, I answer Issue Nos.1 and 2 in the Affirmative.

23. **Additional Issue No.1 :** Defendant has also contended that suit of the plaintiff is barred by law of limitation. According to him, the first transaction took place on 01.05.2019 and the last transaction is as per Ex.P.6 was on 08.04.2021. Plaintiff ought to have filed the suit within 08.04.2024. The present suit is filed on 25.04.2025. Therefore, suit is barred by law of limitation. As per the defence of the defendant, he has made entire payment. This defence signifies that he has made payment of certain due amount to the plaintiff. As per entries in Ex.P.7-Ledger account, the last payment was made by the defendant on 22.03.2022. This means defendant has admitted his liability on 22.03.2022. As per Section 22 of Limitation Act, 1963, in case of continuing breach of contract, a fresh period of limitation begins to run at every moment of the time, during which the breach continues. In addition to this, as per Article-1 of Limitation Act, 1963, the limitation for the balance due on a mutual, open and current account begins to run from the date on which the last item admitted or proved is entered in the account. Further as per Article-23 of the Limitation Act, in case of money payable to the plaintiff for money paid for the defendant, the limitation is three years, which starts to run when the money is paid. Cumulative effect of all

these provisions is that limitation starts from 22.03.2022, the date on which defendant has made last payment to the plaintiff.

24. Further **Hon'ble Supreme Court of India** in **MISCELLANEOUS APPLICATION NO. 21 OF 2022 IN MISCELLANEOUS APPLICATION NO. 665 OF 2021 IN SUO MOTU WRIT PETITION NO.3 OF 2020 IN RE: COGNIZANCE FOR EXTENSION OF LIMITATION by order dated 10.01.2022,** excluded the period from **March 15, 2020, to February 28, 2022**, for computing limitation periods for all suits, appeals, applications, and proceedings, effective from its initial March 23, 2020 order, with subsequent orders extending this to special laws like the Arbitration Act and NI Act, allowing for an additional 90 days or the actual remaining period from March 1, 2022, whichever was longer, and proceeded to hold thus:

> *"The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.4*
> *II. Consequently, the balance period of limitation remaining as on 03.10.2021, if*

any, shall become available with effect from 01.03.2022.
III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022,
notwithstanding the actual balance period of limitation
remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.
IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."

25. Records speak that defendant has initiated Pre-Institution Mediation before the Legal Services Authority, Ballari on 10.03.2025, which can be borne out from Non Starter Report submitted by Member Secretary of the said Authority dated 11.04.2025. As per proviso appended to Section 12-A of Commercial Courts Act, 2015, the period during which the parties remained occupied with Pre Institution Medication, shall

not be computed for the purpose of limitation under the Limitation Act, 1963. Therefore, if this period is excluded, the suit filed is within the period of limitation and makes it lucid that suit is not at all barred by limitation. Hence, I answer Additional Issue No.1 in the Negative.

26. **ISSUE NO.3**: In view of discussion made in detail while answering Issue Nos.1 and 2 and Additional Issue No.1, I proceed to pass following:

ORDER

Suit of the plaintiff is decreed with costs in the following terms:

Defendant is directed to pay ₹11,70,529.50 along with interest @ 18% p.a. from the date of filing of the suit till realization of entire amount.

Draw decree accordingly.

Office is directed to furnish copy of this judgment to parties to this suit through E-Mail, if they have furnished their E-Mail I.Ds., as per Order XX Rule 1 of Code of

Civil Procedure, 1908 as amended by Sec.16 of Commercial Courts Act, 2015.

(Dictated to the Stenographer, transcribed by her, corrected by me, then pronounced in the open court on this the 03rd day of January, 2026).

(GUDI VASUDEV RADHAKANT)
III ADDL. DISTRICT & SESSIONS JUDGE
(COMMERCIAL COURT), BALLARI.

ANNEXURE

List of witnesses examined on behalf of plaintiff:

PW.1 : Kanthilal

List of exhibited documents marked on behalf of plaintiff:

Ex.P.1 : Certified copy of General Power of Attorney

Ex.P.2 to 6: Tax invoices

Ex.P.7 : Ledger account

Ex.P.8 & 11: Copies of legal notices dated 17.01.2025 and 29.01.2025

Ex.P.9 & 10: Postal receipts

Ex.P.12 & 13: Postal covers

Ex.P.12(a) & P.13(a): Notices contained in postal covers

List of witnesses examined on behalf of defendants :

DW.1 : Thatte Aravind

List of documents marked on behalf of defendants:

- NIL -

VASUDEV R GUDI

Digitally signed by VASUDEV R GUDI
Location: IV ADDL. DISTRICT AND SESSIONS JUDGE(COMMERCIAL COURT),BALLARI
Date: 2026.01.03 15:29:06 +0530

(GUDI VASUDEV RADHAKANT)
III ADDL. DISTRICT & SESSIONS JUDGE,
(COMMERCIAL COURT), BALLARI.