

BEFORE THE COMMERCIAL COURT (CIVIL JUDGE, SENIOR DIVISION)
OF HOSDURG.

Present:- Sri. Biju.M.C., Civil Judge (Senior Division)
Monday, the 16th day of February, 2026/27th Magha, 1947

I.A.No.06 OF 2026 IN COMMERCIAL SUIT No.06 OF 2022

Between:-

A.Rajeev, aged 44 years
S/o.Late Vishnu Namboothiri
Residing at Attupurath Illam,
Kinanoor Village, Vellarikundu Taluk,
And now R/at Devi Dental Care Madoor,
Kotekar, Mangalore.

Applicant/
Plaintiff

And

1. Vengayil Sudhakaran (Died)
2. M.Sreejith, aged 35 years
S/o.Vengayil Sudhakaran
3. Vijayakumari, aged 68 years,
D/o. Late Vengayil Sudhakaran
4. Srikala.M, aged 40 years,
D/o.Late Vengayil Sudhakaran,
Respondents 2 to 4 are residing at Puthukunnu,
Kinanoor Village, Vellarikundu Taluk,
Kattipoyil Post.

Respondents/
Defendants

Application filed under Order XI Rule 1 (10), Order VII Rule 14(3) and Section 151 of Code of Civil Procedure.

Petition Presented on : 13.02.2026

Court fee paid : 25.00

This petition coming on this day for hearing before me in the presence of S/Sri.Vittala Bhat.M and K.V.Jayaraj., Advocates for Applicant; of Sri.K.Rajeevan., Advocate for Respondents Nos. 2 to 4; and 1st Respondent is reported no more; the court passed the following:-

ORDER

This is an application filed under Order 11 Rule 10 of the Code of Civil Procedure, 1908, seeking leave of this Court to receive additional documents.

2. The petitioner herein is the plaintiff in the suit. The case of the petitioner is that the documents now produced relate to the subject matter of the dispute and that the said documents are essential for the proper adjudication of their case. It is further contended that the documents could not be produced earlier as they were misplaced, and that the petitioner was able to trace them only recently. It is also stated that the above matter was originally filed as an ordinary suit and was later converted into a commercial suit. At the time of filing the suit, there was no statutory requirement that the plaintiff should disclose all documents in his custody. Therefore, it is contended that the non-disclosure was neither deliberate nor willful.

3. The learned counsel appearing for the respondents/defendants submitted that they have strong objections to receiving the documents. A counter affidavit was filed contending that the documents produced are not admissible in evidence.

4. Now, the short question that arises for consideration is: **“Whether the present application is maintainable and allowable?”**

5. I have heard the learned counsel appearing for the petitioner and the respondents and perused the records.

6. Point: The suit in question is admittedly a commercial dispute governed by the provisions of the Commercial Courts Act, 2015. It is now well settled that in respect of commercial disputes, the procedure prescribed under the Code of Civil Procedure stands amended by virtue of Section 16 of the Commercial Courts Act. In such cases, the provisions of Order XI CPC, as substituted by the Commercial Courts Act, govern the production, disclosure, and inspection of documents. Order XI, as amended, mandates complete disclosure of all documents in the power, possession, control, or custody of the parties at the initial stage itself. A plaintiff is bound to disclose documents along with the plaint, and the defendant is bound to disclose documents along with the written statement. The legislative intent behind the amendment is to ensure strict timelines, procedural discipline, and expeditious disposal of commercial disputes. Order XI Rule 1(10) CPC specifically provides that a party shall not be permitted to rely upon documents which were not disclosed along with the plaint or written statement, as the case may be, except with the leave of the Court. Such leave can be granted only upon the party establishing reasonable cause for non-disclosure at the earlier stage. The consequence of non-production of documents at the prescribed stage in a commercial suit is clearly spelt out under Order XI CPC. A party who fails to disclose documents as required shall ordinarily be precluded from relying upon such documents, unless the Court is satisfied that the non-disclosure was neither willful nor deliberate and that sufficient cause exists. However, in the present case, the suit was originally filed as an ordinary suit and

was later converted into a commercial suit. At the time of filing the suit, the provisions of Order XI CPC were not applicable. In such circumstances, I am of the view that the non-disclosure cannot be said to be willful or deliberate. Therefore, I am inclined to allow the petition.

(Dictated by using A.I Adalath and pronounced by me in the open court on this the 16th day of February, 2026).

CIVIL JUDGE (SENIOR DIVISION)
COMMERCIAL COURT, HOSDURG

Typed by: Remleth.T
Compared by: Mariyam.E.L

Fair/Copy of Order in
I.A.No.06/2026 in C.S. No. 06/2022

Dated : 13.02.2026