

**IN THE COURT OF JUDGE, COMMERCIAL COURT
(DISTRICT JUDGE CADRE), COIMBATORE**

Present: **Thiru. K.Hariharan, M.L.,**
Judge,
Commercial Court (District Judge Cadre),
Coimbatore.

Friday, the 7th day of February, 2025

I.A. No.4 of 2025
in
C.O.S.No.58 of 2024
(CNR No.TNCB22-000461-2024)

M/s. Padmashree Engineering,
Rep. by its Sole proprietor Mr. Paramasivam Petitioner / Plaintiff

// Vs //

1. M/s Yazhini Yarn Mills,
Rep. by its Proprietor, Mr. Murugesan

2. K. Murugesan Respondents / Defendants

This petition came up for final hearing before me on 05.02.2025 in the presence of Tmt.C.S.Yogalakshmi, Advocate for the petitioner / plaintiff and Thiru.P.Anbucheliyan, Advocate for the respondents / defendants and upon perusing the records, hearing both sides and having stood over for consideration till this date, this court doth passed the following:-

ORDER

This petition has been filed by the petitioner / plaintiff seeking to summon the petition mentioned witness and to appear before this Court under Order XVI Rule 1 (2) of C.P.C.

2. **The petition averments which are found essential for the Disposal of the petition is that:-**

The petitioner is the plaintiff and the petitioner proposes to summon two witnesses who are the Bank Managers of Canara Bank, Coimbatore to produce the certified copy of the account statement of the petitioner for the period from 01.02.2019 to 30.09.2020 and the Bank Manager of Tamilnadu Mercantile Bank, Namakkal and to produce the certified copy of the account statement of the respondent for the period from 01.02.2019 to 30.09.2020. (The above witnesses were also added as list of witness in the suit). Further, the petitioner has sought for to summon the witnesses and direct them to file the statement of account and to adduce the evidence.

3. The respondent has endorsed no objection and has not come forward to file the counter.

4. **Point for Consideration:-**

Whether the petition under Order XVI Rule 1(2) of C.P.C. could be allowed?

Point:-

5. The case management hearing for examination of witnesses is fixed on 24.02.2025. This Court prima facie considers that for compliance of provisions under Section 4 of the Bankers Book of Evidence Act filing of

certified account statement from the bank is necessary, considering the same the petition is considered to be allowed as prayed for. The petitioner or the respondent or both shall bear the cost of the witnesses, if incurred for coming to Court and to adduce evidence. Since the filing of documents though may be relevant for the factual context of the suit, this Court considers that the examination of the Managers or any person from the bank who produces the documents may not be necessarily be examined as witness since they may not be aware of any factual particulars than what is mentioned in the accounts statement. Hence, the point of examination of witnesses is considered to be decided on the date of examination i.e., 24.02.2025.

6. In the result the petition is allowed partly for production of documents as prayed for by the Managers of the petition mentioned banks on the date of examination i.e. on 24.02.2025. The relief of examination of Managers as witnesses shall be decided on 24.02.2025 on the basis of necessity.

Dictated to the Steno-Typist, computerized by him directly, Corrected and Pronounced by me in the open Court on this 07th day of February 2025.

Judge,
Commercial Court,
(District Judge Cadre)
Coimbatore

List of Witnesses and Documents:- Nil

Judge,
Commercial Court,
(District Judge Cadre)
Coimbatore