

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

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

Wednesday, the 24th day of September, 2025

I.A. No.6 of 2025
in
C.O.S.No.58 of 2024
(CNR No.TNCB22-000461-2024)

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

2. K. Murugesan

.... Petitioners / Defendants

// Vs //

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

.... Respondent / Plaintiff

This petition came up for final hearing before me on 20.09.2025 in the presence of Thiru.P.Anbucheliyan, Advocate for the petitioner / defendants and Tmt.C.S.Yogalakshmi, Advocate for the respondent / plaintiff 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 petitioners / defendants seeking to condone the delay in filing the petition mentioned additional documents and to receive the same in evidence under Order XI Rule 1(10) of C.P.C.

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

It is the submission of the petitioner / defendant that the petitioner has filed the Statement of Auditor dated 20.01.2020 and submit that the said document have been denied by the respondent / plaintiff in their admission and denial of document statement. Further, it is the submission of the petitioner that to show that the sum of Rs.86,00,000/- paid by the petitioner to the respondent through bank transfers, the petitioner submit that the petitioner is filing the said bank account statement to this Court at present. Further, it is the contention of the petitioner that the petitioner has also obtained the statement of the bank showing the defendant company have made payment to the respondent / plaintiff. Hence, by filing this petition the petitioner says that the said documents were unable to file along with the written statement and sought for to allow the petition.

3. **By denying the petition averments the respondent / plaintiff has filed the counter. The sum and substance of the counter statement averments which are found essential for the Disposal of the petition is that:-**

a) It is the submission of the respondent / plaintiff that the petitioner now has sought for to file the additional document No.1 namely SBI Account statement of the 2nd defendant reflecting the payment of Rs.10,00,000/- to the plaintiff account is not in connection with the supply of machineries or advance

towards the same and submit that the payment dated 19.07.2017 forms part of a distinct personal transaction between the plaintiff's proprietor Mr. Paramasivam and the 2nd defendant Mr. K. Murugesan. The said sum represents repayment of a loan advanced by the 2nd Defendant to the Plaintiff's proprietor in his individual capacity. Further the respondent state that this position is consistent with Additional Document No.3 filed by the respondent / plaintiff and state that which has been already received on record by this Court under I.A.No.3 of 2024 vide order dated 22.01.2025 and submit that the respondent has no objection to file the addition document No.1 as stated in the petition.

b) Further it is the contention of the respondent that the petitioner ought to have filed and disclosed all the documents in their possession and further submitted that the documents now sought to be introduced are their bank account statement which is admittedly within their knowledge and custody at the time of filing their written statement and submit that no sufficient cause or justification are shown for the belated production of the said documents at this stage. Further the respondent submit that the documents listed as document No.2 to 4 bear no nexus to the present suit and further submit that the petitioner have not pleaded any foundation in their written statement or in their pleadings to bring such documents on record. Permitting their introduction would amount to enlarging the scope of the suit and cause prejudice to the plaintiff. Further it is the submission of the respondent that the petitioner have failed to file the

admission and denial of plaint documents in accordance with law and is now attempting to introduce documents by way of substitution for their pleadings and state that such attempt cannot be permitted under Law and particularly when the plaintiff has already filed admission and denial of documents statement. In the above circumstances it is the submission of the respondent that except for the additional document No.1 the present petition is filed by the petitioner is mentioned as devoid of merits and abuse of process of law and sought for to dismiss the petition for the documents No.2 to 4.

4. Point for Consideration:-

Whether the petition under Order XI Rule 1(10) of C.P.C. could be allowed?

Point:-

5. This Court has considered the stage of the suit and also submissions placed by both sides. At present the suit is at the stage of framing of additional issues. Recently the defendant have filed the additional written statement and the filing of additional written statement has arisen due to the filing of amendment in the plaint. Since the suit is presently at the stage of additional issues, in the suit as of now the proceedings have not been moved to the advanced stage of the proceedings. Morefully the plaint has been recently amended and the amended plaint have been filed by the plaintiff on 10.09.2025 before this Court and the

additional written statement have been filed by the defendant on 15.09.2025 and the present petition to receive additional documents have been filed on 18.09.2025 and the counter was in this petition filed on 20.09.2025 and now the petition is taken up for Orders.

6. On the first hand the petitioner / defendant has sought for to file four additional documents and sought for to condone delay in filing the said documents. From the petition averments or from the counter averments it is not revealed that the documents wherein possession or under custody of the petitioner at the time of filing the present suit. Morefully the plaint averments now have underwent change and the additional written statement have now been filed. Apart from that the petitioner has also sought for to file the present documents stating that those documents were recently obtained by the petitioner / defendant. Hence considering the nature of the proceedings and also the stage the proceedings this Court would consider to condone the delay in the present petition.

7. The respondent has raised their contention in the particular document filed by the petitioner that the payment were not related to the present transactions etc., When the petition itself is only for to condone the delay in filing the documents, the merits of the documents could not be looked into at this stage as held by the Hon'ble Supreme Court in the judgment of ***Sudhir Kumar S.Baliyan (S) V. Vinay Kumar G.B.(S)***. Hence, this Court is of

considered stand that the petition could be allowed and the respondent / plaintiff would be at liberty to file the admission and denial of document statement in this regard.

8. In the result the petition is allowed. The respondent would be at liberty to file admission and denial of document statement in this regard.

No costs.

Dictated to the Steno-Typist, computerized by him directly, Corrected and Pronounced by me in the open Court on this 24th day of September 2025.

sd / **Tr. K.Hariharan, M.L.,**
Judge,
Commercial Court,
(District Judge Cadre)
Coimbatore

List of Witnesses and Documents:- Nil

sd / **Tr. K.Hariharan, M.L.,**
Judge,
Commercial Court,
(District Judge Cadre)
Coimbatore