

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

**PRESENT: THIRU.C.B.VEDAGIRI, B.PHARM, MS-IT (AUS)., L.L.M., Judge
Commercial Court, (Senior Civil Judge Cadre)
Coimbatore.**

Dated this the 19th Day of February 2026, Thursday

IA. No. 6 of 2025

in

C.OS No.4 of 2024

(CNR.No.TNCB23-000007-2024)

1. M/s. Shree Murugan Industries
Represented by its Proprietrix
R.Umamaheshwari
2. R.Umamaheshwari
3. B.Rajesh
Authorised Signatory

...Petitioners/ 1st, 2nd and 4th Defendants

//Vs//

M/s. FM Global Logistics India Private Limited,
Represented by its Branch Manager,
Nithyakalyani

... Respondent/Plaintiff

Thus Petition coming on this day for final hearing before me in the presence of Thiru. R.Rajkumar, Advocate for the Petitioners/ 1st, 2nd and 4th Defendants and Thiru. P.Thatchinamurthy, Advocate for the Respondent/Plaintiff. Upon hearing the counsels and on perusal of records, having stood over till this day for consideration, this Court passed the following:-

ORDER

The Petition has been filed by the Petitioners/ 1st, 2nd and 4th Defendants under Order XI Rule 1(10) of the Commercial Courts Act may be pleased to receive the Net copies of the documents filed in COS No. 4 of 2024 on the side of the petitioners.

1. The sum and substance of the Petition:

The petitioner submits that am the 4th deponent/ 3rd petitioner herein and the 4th defendant in COS No. 4 of 2024. The 4th defendant submit that this affidavit for himself and on behalf of the petitioners 1 and 2 also. The case is filed against by the respondent herein as the plaintiff in the main suit for money claim and the petitioners are the defendants 1,2 and 4 in the proceedings. They have filed a petition for reception of documents on petitioner's side. In this, the documents 1 to 7 are mentioned in this petition were filed by way of net copies and transactions between the petitioners and respondent through by on online and the petitioners have received mail copies only. The petitioners have made all the transactions by on line only and the available documents are only as net copies. Since no hard copies or paper copies of the documents are available with us, the net copies may please be ordered to be received and marked as documents on the petitioner's side.

2. The crux of the Counter:

The respondent/plaintiff submitted that the application is false, frivolous, vexatious and unsustainable both in law and on the facts of the case. This respondent does not admit any of the averments made in the affidavit except those which are specifically admitted hereunder and puts the petitioner to strict proof of all of them. The respondent respectfully submits that the said claim is incorrect and denied. The documents No. 1 to 7 appear to be mere screenshots or fabricated copies and cannot be treated as genuine internet-downloaded records. In the absence of proof of proper download or receipt, the said documents are not authentic and therefore cannot be accepted by this Hon'ble Court. Accordingly, the respondent denies and refuses to

accept the said documents. Further the petitioners have failed to disclose the source or device from which the alleged documents were obtained or generated. No details have been furnished regarding the manner of extraction, download or preservation of the electronic records. It is also submitted that the said documents have been compared with or verified against the original records by this Hon'ble Court. The documents 2 to 4 produced by the petitioners were not generated by the plaintiff and do not contain the plaintiff's name at any place in the said documents. Therefore, it is evident that the aforesaid documents were not created or issued by the plaintiff. Accordingly, the plaintiff denies the authenticity and validity of the said documents. The document No. 7 produced by the petitioners, is a photography which does not disclose by whom the photograph was taken or the device used to capture the same. The said photograph does not constitute any reliable record to establish that the items shown therein are products manufactured by the petitioners. Hence the same is not admissible in evidence before this Hon'ble Court. Further the photograph does not contain essential metadata such as date, time, location or GPS details. It is therefore evident that the Document No.7 is fabricated, factually incorrect and legally untenable and the same is hereby denied. It is respectfully submitted that any alleged electronic record must be properly downloaded, verified and compared with the original source by this Hon'ble Court before being relied upon. There is no proof to establish that the items allegedly sent by the petitioners and purportedly dispatched by the respondent are reflected in the said photocopies. The petitioners have failed to prove the same before this Hon'ble Court. It is further submitted that the packaging of the said items was carried out solely by the petitioners themselves. The documents 1 to 7 were already in the possession of the Petitioners, yet the same were not produced at the appropriate stage and appear to have been filed belatedly only to delay the proceedings. The said documents have not been produced in accordance with the proper legal procedure and appear to be fabricated. Therefore this application may be dismissed as unsustainable with exemplary costs.

3. Heard both sides. Perused the record.

4. Point of determination:

The point for consideration is that whether the present petition by the petitioners / 1st, 2nd and 4th defendants to receive the Net copies of the documents be allowed or not?

5. It is the case of the petitioners / 1st, 2nd and 4th defendants that the suit for recovery of money was filed by the respondent and to disprove the case of the respondent / plaintiff, the petitioners/ 1st, 2nd and 4th defendants has filed the present petition to adduce documents as stated in the petition.

6. The petitioner counsel contended that the documents pertaining to the Sales Invoice raised by the plaintiff (3 Nos) (Document No.2 to 4) and Intimation Letter and email communication of the respondent (Document No.5 and 6) would go to show that the respondent is making a false claim against the petitioners.

7. The petitioners counsel urged that the delay in filing the present petition is neither willing nor wanton and contended that the petition mentioned documents are vital evidence to disprove the case of the respondent and prayed to allow the petition.

8. *Per contra*, the respondent counsel contended that the petition is false, vexatious and frivolous and is not maintainable in law and facts. The petition document No. 7 are only photographs without any corresponding film or Pendrive and thus cannot be admitted in evidence. The petition mentioned document Nos. 2 and 4 are draft documents and were part of discussions and the same cannot be treated as conclusive evidence or concluded terms of agreement between the parties and the said three documents were not generated by the respondent.

9. The respondent counsel argued that the present petition has been filed in a belated manner only to drag on the proceedings and thus prayed for dismissal.

10. It is case of the petitioners that to disprove the case of the respondent / plaintiff, the petitioners/ 1st , 2nd and 4th defendants are before this court with the petition seeking leave of this court to adduce additional documents. It is the contention of the respondent that the alleged documents (Nos.2 to 4) sought to be marked are not conclusive and though produced in Pendrive (Document 7). It is seen from the petition averments that the document No.7 is a photograph showing goods which was later produced along with Pendrive. This court finds force in the argument advanced by the respondent / plaintiff that the very photograph would not stand as a proof of goods of the either parties and the nature and status of the same. This court is of the view that the petitioner is precluded to adduce Document No.7 before this court.

11. This court refers to the decision of the **Hon'ble Delhi High Court in Entertainment Network (India) Ltd Vs HT Media Ltd** decided on 29.08.2022 wherein it was held that:

“19. Order XI sub-rule (7) of Rule 1 CPC, as amended by the Commercial Courts Act, 2015, mandates that the Defendant shall file a list of documents in its power, possession, control or custody, pertaining to the suit, along with the written statement. Sub-rule (10) of Rule 1 of Order XI of the Act clearly stipulates that Defendant shall not be allowed to rely on documents which were in Defendant's power, possession, control or custody and not disclosed along with the written statement, save and except by leave of the Court and that such leave shall be granted only upon the Defendant establishing 'reasonable cause' for non-disclosure along with written statement. The Brand Report is a document which beyond a doubt, existed prior to the filing of the written statement and was in power, possession, control or custody of the Defendant. Therefore, the rigours of Order XI Rule 1(10) of the Act shall apply on all four corners and the document cannot be taken on record, unless the Defendant makes out a 'reasonable cause' for its non-disclosure at the time of filing the written statement. The only ground put-forth, as noted above, by the Defendant for non-

disclosure of the document, is 'inadvertence' and the observations of the Court while granting injunction against the Defendant. Unfortunately, under the Commercial Courts Act, these considerations cannot be a ground to permit filing of additional documents. The proscription against permitting such a document to be taken on record, unless a reasonable cause is made out by the Defendant, in my view, is absolute....

24. The question, however, that arises is that whether the Defendant is entitled to grant of leave for filing the said additional documents, considering the fact that the suit is at the stage of commencement of Defendant's evidence. Before alluding to the facts of the present case, I may refer to the judgment in **Polyflor Limited (supra)** where a Chamber Appeal was under consideration before the Court against an order dismissing an application preferred by the Plaintiff under Order VII Rule 14(3) CPC for taking on record additional documents, which were not filed along with the plaint and were sought to be brought on record when Plaintiff's witness was under cross-examination. The Court held as under:-

“17. Thus, the issue is, whether in the above noted facts and circumstances, the plaintiff is entitled to grant of such leave. In the present case, the plaintiff's witness PW-1 is under cross examination and has already undergone a substantial portion of his cross-examination. To grant leave to, and permit the plaintiff to file and lead in evidence additional documents at this stage would mean that the defendants would be put to serious prejudice. The defendants have not had the occasion to deal with the said documents. Had the documents now sought to be produced, been produced at the relevant time, i.e. at the stage of filing of the suit, or at least at the time when the issues were framed, the defendants would have had the occasion to deal with the same by making appropriate pleadings and filing its own documents to counter the reliance placed by the plaintiff on the documents in question.

18. The progress of the suit cannot be interdicted on account of the blatantly casual approach of the plaintiff. The plaintiff has not given any justifiable and acceptable

explanation for not filing the said documents at the earlier stage of the proceedings. If the submissions of the plaintiff were to be accepted, it would mean that in every case, a party should be permitted to lead in evidence documents not earlier filed and relied upon at any stage of the proceedings.

21. As aforesaid, there is no cause shown, much less a reasonable cause for non-disclosure of the documents and non-filing of the documents, or at least copies thereof along with the plaint, or even till the stage of framing of the issues.”

25. In my view, the said judgment squarely applies to the present case. Written statement was filed by the Defendant on 02.06.2016. Application for grant of injunction was heard on 27.10.2016 and the judgment was pronounced on 13.07.2018. Defendant filed an appeal against the said judgment on 26.07.2018; issues were framed on 12.11.2018 and the evidence of the Plaintiff concluded on 12.12.2019. The documents placed on record by the Defendant along with the affidavit of evidence indicate that the Annual Financial Report for the year 2016-17 was available with the Defendant before 26.09.2017, as on the said date the Report was sent to the Ministry of Information and Broadcasting. Annual Financial Report for the year 2017-18 was forwarded to the Defendant by the Accounting Firm under letter dated 28.09.2018 and Annual Financial Report for the year 2018-19 was forwarded to the Defendant vide letter dated 06.06.2019. Therefore, going by these dates, there was no reason why the first two reports were not sought to be brought on record till the year 2020 when they were received in the years 2017 and 2018, respectively. Even the report for the year 2018-19 was in possession of the Defendant in June, 2019, prior to commencement of the Plaintiff's evidence. There is no explanation worth a mention for not filing these reports until the year 2020. In any case, if leave is granted at this stage when the Plaintiff's evidence has concluded and Defendant is permitted to bring the additional documents on record, Plaintiff will not have the occasion to deal with the said documents. Had the documents been filed earlier, Plaintiff would have had an opportunity to deal with the documents by

appropriately amending its pleadings and/or filing its own documents to counter the documents sought to be brought on record by the Defendant. As held in **Nitin Gupta (supra)**, progress of the suit cannot be interdicted on such casual approach of the Defendant and there is no gainsaying that if in every case, a party is permitted to file additional documents once the trial has begun, without due cause, the whole purpose of the Commercial Courts Act would be defeated. Defendant has clearly not been able to show any cause why the trial should be interdicted at this stage, as the only argument is that the documents came into existence post filing of the written statement and are crucial to establish the growing goodwill and reputation. If the contention of the Defendant is accepted, this would be setting the clock back inasmuch as if the documents are taken on record, Plaintiff will have to be given an opportunity to admit/deny the documents and lead its evidence in counter to the said documents, defeating the purpose of the Act, i.e., expeditious disposal. On the same analogy, document (b), which are printouts of the Social Media pages, cannot be taken on record.

29. Reliance by the Defendant on the judgment in **Nitin Gupta (supra)** is misplaced. Indisputably, in the said judgment, the Court has held that a Defendant under Order XI CPC, as applicable to commercial suits, is entitled to file a document if it establishes 'reasonable cause' for nondisclosure as this explicitly flows from the provisions of Order XI Rule 1(10) itself. Defendant has, however, relied on the judgment in support of the contention that the brand report dated 22.12.2015, although not disclosed with the written statement, may be allowed to be brought on record. This argument overlooks the observations of the Court in the said judgment that late filing of documents can be permitted only if the applicant passes the muster of showing 'reasonable cause' and in the present case, Defendant has failed to disclose any cause, which can be termed as 'reasonable cause' for permitting a report of the year 2015 to be brought on record, through an application filed in the year 2020, when in the five years period there were several opportunities available to the

Defendant to place the same on record. It bears repetition to state that mere inadvertence or unfavourable observations in a judgment granting injunction against the Defendant, cannot be a reasonable cause permitting filing of the brand report after five years of its existence. Defendant, it seems, is oblivious of a very significant observation of the Court in this very judgment that if the Commercial Divisions do not enforce provisions of the Commercial Courts Act strictly and show leniency in the name of 'interest of justice', the commercial suits will suffer from the same malady which the ordinary suits suffered.

30. With the greatest of respect, this Court cannot adopt this reasoning in the present suit in light of the judgments of the Supreme Court and this Court, as aforementioned as well as keeping in backdrop the Statement of Objects and Reasons of the Commercial Courts Act, 2015, which is to provide for speedy disposal of the suits. If each time an additional document is sought to be placed on record by any party to the suit, without due cause, at a stage when the trial has commenced and the same has to be allowed on the ground that the opposite party can be given an opportunity to cross-examine the witnesses and recall its own witnesses, the purpose of the suit proceedings under the Commercial Courts Act will be defeated.”

12. This court is conscious of the object and purpose of the Commercial Courts Act, 2015 which aims for speedy disposal of the suits and the mandate to act in stipulated timelines, levying cost on parties if the same is not adhered to.

13. This court refers to the recent decision of the **Hon'ble Supreme Court in Sudhir Kumar @ S. Baliyan vs Vinay Kumar G.B. AIR 2021 SC 4303** wherein it was held that:

“7.2 At the outset, it is required to be noted that as such the said application for leave to produce on record additional documents was preferred by the appellant herein – original plaintiff under Order VII Rule 14 (3) of the CPC. However, considering the Order XI Rule 1 as applicable to the commercial suits by which Civil Procedure Code

has been amended with respect to the suits before the commercial court and in view of the Section 16 of the Commercial Courts Act, Order VII Rule 14 (3) of the CPC shall have no application at all. After the Order XI Rule 1 has been amended with respect to the suits before the commercial courts and a specific provision/procedure has been prescribed with respect to the suits before the commercial division and before the commercial court, the provision of the Code of Civil Procedure as has been amended by the Commercial Courts Act, 2015 shall have to be followed and any provision of any rule of the jurisdiction of the High Court or any amendment to the Code of Civil Procedure by the State Government which is in conflict of the Code of the Civil Procedure as amended by Commercial Courts Act, the provision of the Code of the Civil Procedure as amended by the Commercial Courts Act shall prevail. Therefore, Order XI Rule 1 as amended by the amendment in the Commercial Courts Act, with respect to the suits before the commercial division and the commercial court, the provisions of Order VII Rule 14 (3) shall not be applicable at all. Therefore as such the plaintiff applied the wrong provision seeking leave of the court to place on record the additional documents. However, considering the fact that thereafter, both the learned Commercial Court as well as the High Court treated and considered and even applied Order XI Rule 1 of the CPC as amended by the Commercial Courts Act and as applicable to the suits filed before the commercial division, commercial court, we proceed to consider the application submitted by the appellant herein – original plaintiff, as if the same was submitted under Order XI Rule 1 (4) of the CPC.

7.3 It is true that Order XI Rule 1 of the CPC as applicable to the commercial suits brought about a radical change and it mandates the plaintiff to file a list of all documents, photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the plaint and a procedure provided under Order XI Rule 1 is required to be followed by the plaintiff and the defendant, when the suit is the commercial suit.

9. In view of the above and for the reasons stated above, the plaintiff can be permitted to rely on the documents in the form of invoices as mentioned in the application as additional documents. However, such production shall not affect the outcome of interim injunction application submitted under Order XXXIX Rule 1 of the CPC, which as such is reported to be kept for orders.”

14. It is seen from the record that the parties to the *lis* had filed the statement of truth before this court and a declaration to that effect. In considering the fact that the suit was filed for recovery of money by the respondent / plaintiff, the suit being in the stage of case management hearing, in order to effectuate the speedy trial and for effective adjudication, this court is inclined to allow the petition to receive the additional documents as there exist reasonable cause in relying on the documents sought to be adduced to base his claim and is subject to proof, relevancy and admissibility.

15. This court is also very remindful of the recent decision of Hon’ble Supreme Court in *Levaku Pedda Reddamma and other Vs Gottumukkala Venkata Subbamma* and Another wherein it was observed “ that denying a party in a civil matter permission to produce additional documents, even if there is considerable delay result in denial of justice.”

16. It was also stated that “the relevancy of the documents could be examined by the trial court on the bars of the evidence to be led, but to deprive a party to the suit not to file documents if there is a delay will lead to denial of justice.”

17. This court also relies on the decision of Hon’ble High Court Madras in *Gelateria Montecatini Terme Ice cream Art India Private Limited an others Vs Aswath Raj* wherein it was observed that the learned counsel for the other side could raise the issue of admissibility, relevancy and proof and that the trial court is bound to address the objections.

18. Since the scope of this petition is only limited to receiving of additional documents, the respondent/plaintiff could cross examine the defendants/petitioners and could elicit the issues pertaining to admissibility, relevancy and proof of the documents sought to be relied by the petitioners/ 1st , 2nd and 4th defendants. Except Document No.7 which is only photograph (though produced in Pendrive), other documents from 1 to 6 are hereby permitted to be adduced as evidence before this court.

19. For the reasons stated Supra, this court feels that no prejudice would be caused to Respondent/ Plaintiff by marking these documents.

20. In considering the delay, with the aim to not defeat the purpose of the Act, this court is inclined to impose a cost of Rs.2000/- to be paid to by the petitioner / 1st , 2nd and 4th defendants to the respondent / plaintiff on or before 06.03.2026.

In the result, the petition would be allowed upon payment of cost of Rs.2000/- to be paid by the Petitioners / 1st , 2nd and 4th Defendants to the Respondent / Plaintiff on or before 06.03.2026.

The Order is directly typed in computer by Typist, corrected and pronounced by me in this Open Court on this 19th Day of February, 2026.

Judge
Commercial Court
(Senior Civil Judge Cadre)
Coimbatore

List of Documents:-

List of Documents the side of the Petitioners: Nil

List of Documents the side of the Respondents: Nil

Judge
Commercial Court
(Senior Civil Judge Cadre)
Coimbatore

Fair Order
IA.No. 6 of 2025
Cos No. 4 of 2024
Date: 19.02.2026