

**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 11<sup>th</sup> Day of August 2025, Monday.

***IA. No. 03 of 2025***

***in***

***C.OS No.539 of 2023***

***(CNR.No.TNCB23-001067-2023)***

M/s. V. R. Foundries,  
A firm rep by its Managing Partner,  
V. R. Narenkumar

... Petitioner/Plaintiff

***//Vs//***

1. M/s. Vibromech Engineers and Services Ltd,
2. Mr. Ramamurty  
Joint Managing Director M/s.Vibromech Engineers and Services Ltd,
3. Mr. R. Mahesh Ramamurty  
Joint Managing Director M/s. Vibromech Engineers and Services Ltd,
4. AnuRamamurty  
Joint Managing Director M/s. Vibromech Engineers and Services Ltd.

... Respondents/Defendants

This Petition coming on this day for final hearing before me in the presence of Mr. P. R. Ramakrishnan, Advocate for the Petitioner/Plaintiff and Ms. Ramani & Shankar, Advocate for the Respondents/Defendants. 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 Petitioner/Plaintiff under Order XI Rule 1(5) of the Commercial Court Act 2015 to grant leave and to file the documents and receive the same in evidence.

**1. The sum and substance of the Petition:**

The Petitioner/Plaintiff states that the petitioner is the Manager Accounts of the Plaintiff firm and conversant with the facts of the case. The petitioner/plaintiff submit that we have filed the above suit for recovery of money due from the defendants in respect of the dealings and transactions we had with them and file the photocopies of the invoices pertaining to the transaction at the time of filing of the suit. The triplicate copy of the said invoices is available with us. Further the petitioner/plaintiff have pleaded in our plaint that the cheques given by the defendants for repayment of the amount due have been dishonored. The petitioner/plaintiff is producing the dishonored cheques and return memo. Though the facts were pleaded in our plaint, the petitioner/plaintiff did not produce the same because the returned cheques were with our auditor and little did we realize that the defendants would deny issuance of cheques. Now since the defendants have even denied the said fact, it has become pertinent for us to produce the same. The petitioner/plaintiff also producing the statement of account to show the part payments made by the defendants and these documents are crucial to decide the issue in dispute, which will aid this Honourable court to come into a just conclusion. The delay in producing the documents is neither willful nor wanton. The petitioner/plaintiff also submitted that unless granted leave to file these documents, we shall suffer irreparable loss and hardship. It is therefore just and necessary that this Honorable Court may be pleased to grant me leave to file the documents mentioned in the accompanying application and receive the same in evidence and thus justice be rendered.

**2.The crux of the Counter on behalf of the Respondent No. 1:**

This Respondent/Defendant submitted that am the Managing Director of the Respondent No.1 herein and aware of the facts of the case. This Respondent/defendant denies all the averments, allegations, and contentions set forth in the affidavit filed in support of the Interlocutory Application, save and except those that are specifically admitted herein. The petitioner is put to strict proof of each and every allegation made therein. The present application, filed by the petitioner under order XI Rule 5 of the Commercial Courts Act, 2015 (“the Act”), seeking leave to file additional documents, is devoid of merit, wholly misconceived, and not maintainable either in law or on facts. The application is a belated attempt to fill the lacunae in the plaintiff’s case and is liable to be dismissed in limine. The present suit was in the stage of examination of witnesses. Upon filing of proof affidavit of DW1, the petitioner took note of the defects pointed out and in order to rectify those defects and to fill up the lacunae in the plaint, the petitioner filed this instant application, seeking leave of the court to file additional documents.

This respondent/defendant has submitted that the object of the Commercial Courts Act, 2015, particularly the provision of Order XI, mandates a strict timeline and procedure for the filing of documents. The legislative intent is to ensure the expeditious disposal of commercial suits and to prevent parties from introducing documents at their whim and fancy at any stage of the proceedings.

The petitioner now seeks to bring on record the following documents:

- (1) Triplicate Copies of Invoices Nos. 02/40/5648, 02/40/5628
- (2) Original Cheques issued by the Respondent herein and the corresponding return memo bearing Cheque Nos. 000181 dated 20.12.2019, 000182 dated 28.12.2019, 000183 dated 03.01.2020, 000184 dated 10.01.2020, 000185 dated 17.01.2020, 000186 dated 24.01.2020 and
- (3) Computerized statement of accounts of the Plaintiff.

These documents are fundamental to the petitioner/Plaintiffs claim and ought to have been in the power, possession, control or custody of the Petitioner/Plaintiff at the time

of the institution of the suit. Under Order XI Rule 1 (1) of the Act, the Petitioner/Plaintiff is obligated to file a list of all documents and photocopies of all documents in its power, possession, control or custody, pertaining to the suit, along with the plaint. Leave to file additional documents, which were not filed with the plaint, can only be granted under Order XI Rule 1 (5) if the Plaintiff establishes a “reasonable cause” for such non-disclosure.

This respondent relies on the settled position of law as enunciated by the Hon’ble Supreme Court of India in the matter of Sudhir Kumar @ S. Baliyan vs. Vinay Kumar G.B., (2021) SCC OnLine SC 734. The Hon’ble Supreme Court, while interpreting the phrase “reasonable cause” under Order XI Rule 1(5) of the Act, has unequivocally held that the said provision must be construed strictly. In the aforementioned Judgment, the Hon’ble Supreme Court observed that the legislative intent behind the Act was to provide a streamlined and time bound procedure. The court held that a party seeking to file additional documents must demonstrate that, despite exercising due diligence, the documents could not be produced along with the plaint. Mere oversight, lack of diligence, or a tactical decision to withhold documents cannot constitute a “reasonable cause”. The mere fact that the documents were in the custody of their auditor does not satisfy the requirement of “reasonable cause”, as laid down in Sudhir Kumar (supra).

Applying the ratio of Sudhir Kumar (supra) to the facts of the present case, it is evident that the petitioner/plaintiff has failed to establish any “reasonable cause” for the non-production of the said documents with the plaint. The documents in question, being invoices, cheques, and statements of account, are primary documents that form the very basis of the commercial transaction alleged by the Petitioner/Plaintiff. It is inconceivable that these documents were not available to the plaintiff at the time of filing the suit. The affidavit filed in support of the application is conspicuously silent on any cogent, plausible, or reasonable explanation for this failure.

Allowing the Petitioner/Plaintiff to produce these documents at this belated stage would not only be in direct contravention of the mandatory provisions of the

Commercial Courts Act, 2015, but would also cause grave prejudice to the Respondent. It would effectively grant the petitioner/plaintiff an opportunity to improve its case and alter the course of the trial, thereby defeating the very object of the Act which is to ensure fair and expeditious justice and is liable to be dismissed 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 petitioner / plaintiff to grant leave and to file the documents and receive the same in evidence is to be allowed or not?

5. It is the case of the petitioner / plaintiff that the present petition has been filed to adduce additional documents on the side of the petitioner / plaintiff to substantiate their claim.

6. The petitioner counsel contended that they have the present suit for recovery of money due from the respondent / defendants in respect of their business dealings and transactions and that the petitioner has filed the photocopies of the invoices pertaining to the transaction at the time of filing of the suit and that the triplicate copy of the said invoices is available with the petitioner.

7. It is also the petitioner's contention that they have pleaded in the plaint that the cheques given by the respondents/defendants for repayment of the amount due have been dishonored, but were not filed in the present suit as the same were with their Auditor and that the petitioner did not anticipate that the respondents would deny the very issuance of the alleged cheque which got dishonoured for payment. The very denial constrained this petitioner to adduce the same before this court along with the the statement of account to show the part payments made by the respondents / defendants.

8. The petitioner counsel argued that the documents in:

1. Triplicate Copies of Invoices Nos. 02/40/5648, 02/40/5628,

2.Original Cheques issued by the Respondent herein and the corresponding return memo bearing Cheque Nos. 000181 dated 20.12.2019, 000182 dated 28.12.2019, 000183 dated 03.01.2020, 000184 dated 10.01.2020, 000185 dated 17.01.2020, 000186 dated 24.01.2020

3.Computerized statement of accounts of the Plaintiff.

are vital to decide the issue in dispute and urged that the delay attributed is neither willful nor wanton and prayed to grant leave to file the petition mentioned documents and to receive the same in evidence.

**9. Per contra**, the respondent / defendant counsel contended that the petition is not maintainable on law or facts and is a belated attempt to fill the lacunae in the petitioner's /plaintiff's case and is liable to be dismissed *in limine*. It could be seen from the records that the present suit is in the stage of examination of witnesses and the present respondent upon filing of proof affidavit of DW1, the petitioner has come up with this petition to rectify the defects and to fill up the lacunae in the plaint, has filed this present petition.

**10.** The respondent counsel argued that the object of the Commercial Courts Act, 2015, particularly the provision of Order XI, mandates a strict timeline and procedure for the filing of documents. The legislative intent is to ensure that there is expeditious disposal of commercial suits and to prevent parties from introducing documents at their whim and fancy at any stage of the proceedings.

**11.** The respondent counsel contended that alleged fundamental documents ought to have been in the power, possession, control or custody of the Petitioner/Plaintiff at the time of the institution of the suit. Under Order XI Rule 1 (1) of the Act, the Petitioner/Plaintiff is obligated to file a list of all documents and photocopies of all documents in its power, possession, control or custody, pertaining to the suit, along with the plaint. Leave to file additional documents, which were not filed with the

plaint, can only be granted under Order XI Rule 1 (5) if the Plaintiff establishes a “reasonable cause” for such non-disclosure.

12. To bolster his argument the respondent counsel places reliance on the decision of the Hon’ble Supreme Court of India in the matter of **Sudhir Kumar @ S. Baliyan vs. Vinay Kumar G.B., (2021) SCC OnLine SC 734**, wherein the Hon’ble Apex Court, while interpreting the phrase “reasonable cause” under Order XI Rule 1(5) of the Act, has unequivocally held that the said provision must be construed strictly.

13. The respondent counsel urged that the Hon’ble Supreme Court in the **Sudhir Kumar @ S. Baliyan** stated *supra*, has observed that the legislative intent behind the Act was to provide a streamlined and time bound procedure. The court held that a party seeking to file additional documents must demonstrate that, despite exercising due diligence, the documents could not be produced along with the plaint. Mere oversight, lack of diligence, or a tactical decision to withhold documents cannot constitute a “reasonable cause”. In the case on the hand, the mere fact as alleged by the petitioner/ plaintiff that the documents were in the custody of their auditor does not satisfy the requirement of “reasonable cause”. The petitioner has not given reasonable cause for the non production of the invoices, cheques, and statements of account along with the plaint which are primary documents to the *lis* and allowing the Petitioner/Plaintiff to produce these documents at this belated stage would not only be in direct contravention of the mandatory provisions of the Commercial Courts Act, 2015, but would also cause grave prejudice to the Respondent/Defendant.

14. The respondent counsel finally argued that if the present petition is allowed, it would grant the petitioner/plaintiff an opportunity to improve its case and alter the course of the trial, thereby defeating the very object of the Act which is to ensure fair and expeditious justice and thus prayed for dismissal with exemplary costs.

15. It is from the record that the present suit is being filed by the petitioner /plaintiff against the respondents/ defendants for recovery of money due from the respondents / defendants and that the petitioner / plaintiff is before this court with the petition seeking leave of this court to seek permission of this court to adduce additional documents to base their claim.

16. 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. xxx xxx xxx

21. As aforesaid, there is no cause shown, much less a reasonable cause for non-disclosure of the documents and nonfiling 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.”

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

18. It is also an ordinary practice that the court allows filing of additional document petition during trial or in the belated stages upon cost subject to proof, relevancy and admissibility. It is also from the record that the present suit has been filed before this court as the dispute involves commercial transaction. This court is of the view that the petitioner / plaintiff has averred in his plaint regarding the very document and he is before this court to adduce additional documents to strengthen his claim.

19. This court has also not lost sight of the decision of the **Hon’ble Supreme Court** in **Sudhir Kumar @ S. Baliyan vs Vinay Kumar G.B. AIR 2021 SC 4303** referred by the respondent counsel.

20. 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 petitioner/plaintiff, the suit being in the stage of evidence and 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. The question pertaining to denial of the issuance of cheque by the respondent / defendant, the alleged documents pertaining to the same and its relevancy could very well be decided during the trial.

21. 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.”

22. 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.”

23. 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.

24. Since the scope of this petition is only limited to receiving of additional document, the respondents/defendants could cross examine the petitioner/plaintiff and could elicit the issues pertaining to admissibility, relevancy and proof of the documents sought to be relied by the petitioner/plaintiff.

25. For the reasons stated Supra, this court feels that no prejudice would be caused to Petitioner/ Plaintiff by marking these documents, subject to admissibility, relevancy and proof.

26. But this court has not lost sight of the trajectory of the case, counter averments and the arguments advanced by the learned counsel for the respondents/defendants. This court finds force in the argument advanced by the respondent counsel that the petitioner / plaintiff could have filed the same documents at the time of filing the suit. But having mentioned about the plaint documents in the plaint, respondent / defendant having denied the issuance of the alleged cheque, this court finds that permitting the petitioner / plaintiff to adduce the petition mentioned documents would not cause any prejudice or hardship to the respondent / defendant.

27. In considering the delay, with the aim to not defeat the purpose of the Act, this court is inclined to impose cost of Rs.2000/- to be paid to by the Petitioner / Plaintiff to the Respondents/ Defendants on or before 22.08.2025.

***In the result, the petition would be allowed upon payment of cost of Rs.2000/- to be paid by the Petitioner / Plaintiff to the Respondents / Defendants on or before 22.08.2025.***

The Order is directly typed in computer by Typist, corrected and pronounced by me in this Open Court on this 11<sup>th</sup> Day of August, 2025.

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. 03 of 2025*  
*Cos No. 539 of 2023*  
*Date: 11.08.2025*  
*SCJ, CBE*