

**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 5th Day of August 2025, Tuesday.

IA. No. 2 of 2024

in

C.OS No.737 of 2024

(CNR.No.TNCB23-001766-2024)

M/s. Madhu Jayanti International Pvt. Ltd.,
Represented by it's the Managing Director,
Mr. Harish Shah.

... Petitioner/Defendant

//Vs//

M/s. Elite Furniture Mart,
Represented by its Proprietor,
Mr. K. J. Antony.

... Respondent/Plaintiff

This Petition coming on this day for final hearing before me in the presence of
Mr. P. Thatchinamurthy, Advocate for the Petitioner/Defendant and
Mr. B. Harisudhan, 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 Petitioner/Defendant under Order VIII Rule 1-A (3) to allow the petitioner to file and to receive the documents.

1.The sum and substance of the Petition:

The Petitioner/Defendant is represented by its Managing Director and working as a Manager in the defendant company and well aware of details of the case. The documents mentioned in the petition are very important documents for this suit and these documents were mixed with other documents and could not be filed in the court in time. The Petitioner/Defendant has apologized for delay in filing the documents and allows the documents to receive. If the petition is not allowed to file and receive the documents, the petitioner/defendant company will face great hardship and loss. Therefore the petitioner/defendant prayed to file the documents and receive the same.

2.The crux of the Counter:

The Respondent/Plaintiff has submits that the petition is false, frivolous, vexatious and not maintainable either in law or on facts of the case. The petitioner is put to strict proof of all the allegations except those that is specifically admitted herein. The petitioner has filed this petition praying to take nine documents in total on file. Documents 3, 4, 5, 6, 7 and 8 are communications between the petitioner and third party. The Respondent/Plaintiff is not a party to this communication. They are created of late for the purpose of the case with concocted stories with intention to deprive the respondent of their legitimate right. These documents do not bind the respondent. The petitioner has created these documents after adducing of evidence with ulterior motive. The respondent has serious objections in marking the documents arrayed in the petition as S. Nos. 3, 4, 5, 6, 7 and 8. 9th document intended to be marked is mentioned as e-mail. If the communication is between the petitioner and respondent, the respondent has no objection in marking these email communications and prayed

to dismiss the petition in respect of document Nos. 3 to 8 and allow the remaining documents to be marked.

3. Heard both sides. Perused the record.

4. Point of determination:

The point for consideration is that whether the present petition by the petitioner / defendant to file and receive the documents is to be allowed or not?

5. It is the case of the petitioner / defendant that the present suit has been filed for the recovery of outstanding amount alleged to be paid by the petitioner/defendant to the respondent/plaintiff for the various works being carried by the respondent for the petitioner's premise. The present petition has been filed to seek orders of this court to file and receive the documents.

6. The petitioner counsel contended that the Petition mentioned documents were vital to the case on hand and these documents were mixed with other documents and could not be filed in the court along with written statement or in time. The delay is neither wanton nor negligent and stated that if the petition to receive the additional documents is not allowed it would cause prejudice, hardship and loss to the petitioner and prayed to allow this petition.

7. The petitioner counsel urged that the petitioner has spent more money than the quoted payment and due to incomplete work of the respondent / plaintiff, the petitioner has entrusted the work to third party and has completed the reworks left by the respondent/plaintiff which also incurred monetary burden on the petitioner.

8. **Per contra**, the respondent / plaintiff counsel contended that the petition is not maintainable on law or facts and has no bonafide. The petition has been filed only to protract the proceedings and with intention to fill up the lacuna and omissions.

9. The respondent counsel urged that the alleged Documents No.3, 4, 5, 6, 7 and 8 are communications between the petitioner/defendant and third party and this Respondent/Plaintiff is not a party to these communications and would not bind the

respondent. The alleged documents were created purposefully to deprive the respondent/plaintiff's legitimate claim and has serious objection in marking the above mentioned documents.

10. The respondent counsel also urged that the 9th document intended to be marked is mentioned as e-mail and if the communication is between the petitioner and respondent, the respondent has no objection in marking these email communications and prayed to dismiss the petition in respect of document Nos. 3 to 8 and stated that he has no objection in allowing other documents except the above.

11. It is from the record that the present suit is being filed by the respondent /plaintiff against the petitioner / defendant for recovery of money due from the petitioner / defendant and that the petitioner / defendant is before this court with the petition seeking leave of this court to adduce nine additional documents pertaining to the quotation and bills of the petitioner / defendant with third parties, communication through emails to counter the case of the respondent / plaintiff.

12. The respondent counsel placed reliance on 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.”

13. 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.

14. It is also the case of the petitioner / defendant that the petitioner has mentioned about the additional work being entrusted to third party, additional financial burden on the petitioner in his reply notice in Document 2 of this respondent and also averred the same in his written statement.

15. 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 regular subordinate court and was later transferred to this court as the dispute involves commercial transaction.

16. 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.”

17. 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 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 forgery of the document and its relevancy could very well be decided during the trial.

18. 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.”

19. 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.”

20. 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.

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

22. For the reasons stated *supra*, this court feels that no prejudice would be caused to Respondent/ Plaintiff by marking these documents, subject to admissibility, relevancy and proof.

23. 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 respondent/plaintiff. This court finds force in the argument advanced by the respondent counsel that the petitioner / defendant could have filed the same documents along with the written statement.

24. 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 / Defendant to the Respondent/ Plaintiff on or before 18.08.2025.

In the result, the petition would be allowed upon payment of cost of Rs.2000/- to be paid by the Petitioner / Defendant to the Respondent / Plaintiff on or before 18.08.2025.

The Order is directly typed in computer by Typist, corrected and pronounced by me in this Open Court on this 05th 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. 02 of 2024.
Cos No. 737 of 2024.
Date: 05.08.2025.