



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 8TH DAY OF JULY, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.4416/2021 (GM-CPC)

BETWEEN:

STRATEGIC OUTSOURCING SERVICE PVT. LTD.,
A COMPANY INCORPORATED UNDER THE
COMPANIES ACT, 1956
REGISTERED OFFICE AT NO.70/25
80 FEET CIRCULAR RING ROAD
4TH BLOCK, KORAMANGALA
BENGALURU - 560034
REP. BY ITS AUTHORIZED REPRESENTATIVE
AND DIRECTOR MR. PRADEEP PATIL.

...PETITIONER

(BY SRI. ANAGHA NARASIMHA C.N. ADV., FOR
SRI. P.B. AJIT, ADV.,)

AND:

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA

1. THE STATE OF KARNATAKA
REP BY ITS PRINCIPAL SECRETARY
DEPT OF ANIMAL HUSBANDRY AND FISHERIES
ROOM NO.4, 4TH FLOOR, VIKASA SOUDHA
DR. B.R. AMBEDKAR VEEDHI
BENGALURU - 560001.
2. THE STATE OF KARNATAKA
REP BY ITS SECRETARY
DEPT OF IT AND BT, VIKAS SOUDHA
DR. B.R. AMBEDKAR VEEDHI
BENGALURU - 560001.
3. THE PROJECT DIRECTOR
KARNATAKA LIVESTOCK DEVELOPMENT AGENCY



DEPARTMENT OF ANIMAL HUSBANDRY AND
VETERINARY SERVICES
2ND FLOOR, PODIUM BLOCK
VISHVESHWARIAH TOWER
DR. B.R. AMBEDKAR VEEDHI
BENGALURU - 560001.

4. THE MANAGING DIRECTOR
KARNATAKA STATE ELECTRONICS DEVELOPMENT
CORPORATION LIMITED (KEONICS)
2ND FLOOR, A BLOCK, BMTC BUILDING
K H ROAD, SHANTHINAGAR
BENGALURU - 560027.

...RESPONDENTS

(BY SMT. K.P. YASHODHA, AGA FOR R1 TO R3
SRI. NISHANTH A.V. ADV., FOR R4)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER
DATED 10.03.2020 IN COM.O.S.2361/2018 (VIDE ANNEXURE
A) PASSED BY THE LEARNED LXXXIII ADDL. CITY CIVIL AND
SESSIONS JUDGE AT BENGALURU CITY & ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED ON
01.07.2026, COMING ON FOR PRONOUNCEMENT OF ORDER,
THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL



CAV ORDER

This writ petition is filed challenging the order dated 10.03.2020 passed in Com.O.S.No.2361/2018 by the LXXXIII Additional City Civil and Sessions Judge, Bengaluru (CCH-84) (for short 'the Trial Court').

2. The parties shall be referred to as per their ranking before the Trial Court for the sake of convenience.

3. The brief facts leading to the filing of this petition are that the plaintiff filed a suit in Com.O.S.No.2361/2018 seeking the relief of recovery of a sum of Rs.7,94,83,115/- from the defendants. In the said suit, the plaintiff filed an application under Order XI Rule 5 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'the CPC') seeking to produce the additional documents. The Trial Court considered the said application and proceeded to reject the same. Hence, this petition is filed by the plaintiff.



4. Sri.Anagha Narasimha C.N., learned counsel appearing for the petitioner submits that the Trial Court has passed the impugned order without considering the material available on record and the law in its proper perspective. It is submitted that the suit was filed before the Civil Court and after framing of the issues, the suit was transferred to the Commercial Court, hence, the procedure applicable for production of additional documents should be as per the unamended CPC. It is further submitted that the Trial Court has failed to consider the scope of Order XI Rule 1(5) of the CPC as amended by the Commercial Courts Act, 2015 (for short, 'the Act') i.e. to expedite the proceedings and not scuttle the rights of the parties. In support of his contentions, he placed reliance on the decision of the Calcutta High Court in the case of ***ITC LIMITED Vs. JP MORGAN MUTUAL FUND INDIA***



PVT LIMITED AND OTHERS¹. Hence, he seeks to allow the petition.

5. *Per contra*, the learned Additional Government Advocate for the respondent Nos.1 to 3 and Sri.Nishanth A.V., learned counsel appearing for the respondent No.4 support the impugned order of the Trial Court and submit that the Trial Court has considered the material on record in its proper perspective and the same does not call for any interference. Hence, they seek to dismiss the petition.

6. I have heard the arguments of the learned counsel for the petitioner-plaintiff, learned counsel for the respondents-defendants and perused the material available on record. I have given my anxious consideration to the submissions advanced on both the sides.

¹ 2020 SCC Online Cal 972



7. The plaintiff filed a suit in O.S.No.2361/2020 seeking recovery of a sum of Rs.7,94,83,115/- and other reliefs. After filing of the written statements by the defendants, the suit was posted for framing of issues. Thereafter, the said suit came to be transferred to the Commercial Court vide Notification No.ADM.1(A)21/2019 dated 10.01.2019. After framing of issues, the case was subsequently posted for evidence. On 03.01.2020, the plaintiff filed an application in I.A No.1/2020 under Order XI Rule 5 read with Section 151 of the CPC, to produce additional documents and along with the said application, an affidavit was filed stating that at the time of filing of the suit, the documents mentioned in the application were misplaced because of which the plaintiff was unable to secure the said documents and file the same. The defendant No.4 filed objections to the said application. The Trial Court, upon considering the application has proceeded to reject the same on the grounds that the documents sought to be produced by the plaintiff were not



disclosed in the plaint and that the said documents have been sought to be produced after a delay of 2 years since the suit was filed. The Trial Court reasoned that the suit involved a commercial dispute and as per Order XI Rule 1(5) of the CPC, the plaintiff is bound to produce the documents which were in power, possession or custody of the plaintiffs at the time of filing of the suit and if the plaintiff was unable to do so, leave of the Court ought to have been sought for production of documents along with substantiating a sufficient cause for non-production of such documents. Since the plaintiff had not given any sufficient cause for not producing the documents, the Trial court dismissed the application.

8. The learned counsel for the petitioner contends that the provisions of the unamended CPC would be applicable to the case on hand and places reliance on the decision of the High court of Calcutta in the case of **ITC LIMITED** referred supra, which is extracted as under:



"14. Hence, under the new law, i.e. post-2015, a defendant can rely on additional documents provided the Court grants it leave to do so and upon being satisfied of the reasons shown by the defendant for non-disclosure of the documents along with the written statement.

15. The defendant no. 2 has stated in its Affidavit-in-Reply that the procedure for discovery and disclosure of documents in the present suit falls outside the scope of the Commercial Courts Act since both the defendants had already filed their written statements in 2016 and their affidavits of documents in July 2017 before the present suit was directed to appear as a commercial suit on 6th November, 2017. This Court is inclined to accept the aforesaid stand as Section 15 of Chapter V of the 2015 Act dealing with transfer of pending suits provides under sub-section (3):

15. Transfer of pending cases.- (3) *Where any suit or application, including an application under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of Specified Value shall stand transferred to the Commercial Division or Commercial Court under sub-section (1) or sub-section (2), the provisions of this Act shall*



apply to those procedures that were not complete at the time of transfer.

16. *Hence, as the filing of the written statements as well as the disclosure and discovery were all completed before the suit migrated to a commercial suit, the defendant would be governed by the un-amended provisions of the CPC, namely, Order VIII Rule 1-A (3) under which, the defendant has only to obtain leave for producing additional documents."*

9. The aforesaid enunciation of the law laid down by the High Court of Calcutta is that since the filing of the plaint and written statements as well the discovery of documents were already completed, the provisions of the amended CPC would not be applicable in deciding whether the production of documents must be allowed or not.

10. Be that as it may, in the case on hand, it would be useful to refer to Order VII Rule 14 of the CPC as amended by the Karnataka High Court Amendment dated 30.03.1967, which reads as under:



"14. (1) The plaintiff shall endorse on the plaint or annex thereto a list of documents required to be produced or disclosed as hereinafter provided in this rule.

(2) Where the plaintiff sues upon a document in his possession or power, he shall produce it in court when the plaint is presented, and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

(3) Where the plaintiff relies on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in the list above referred to showing separately which of the documents in his possession or power and which are not, which of the documents in his possession or power he has produced with the plaint and which are not so produced. In regard to any such documents which are not produced, the list shall contain a statement of the reason for their non-production and the steps which the plaintiff has taken or will take to produce them or cause their production."

11. The aforesaid provision makes it clear that at the time of filing of the plaint, the plaintiff ought to have made a list of documents which are in possession and are produced and which are not in possession and are not produced. With respect to such documents which are not produced, the list shall contain a statement of the reason for their non-production along with the steps taken or to



be taken by the plaintiff to produce the same. Hence, even if the application is to be considered as per the provisions of the unamended CPC (as amended by the Karnataka High Court amendment), the plaintiff has neither produced a list of the documents that he has not produced nor has he given any reason for their non-production.

12. Furthermore, it is to be noticed that the application in the instant case has been filed after an enormous delay of 2 years since the initial filing of the suit before the Trial Court and 1 year since the suit was transferred to the Commercial Court and without assigning any sufficient cause for such delay. It is observed that in the affidavit filed in support of the said application, paragraph 4 states that the documents mentioned in the application were "misplaced" and due to such reason, the plaintiff was unable to produce the documents at the time of filing of the suit. On a bare perusal of the affidavit, it is



seen that there is no sufficient cause shown for the delay. Furthermore, if the documents were not in the custody of the plaintiff at the time of filing of the suit, leave of the Court ought to have been taken once the suit was transferred to the Commercial Court and the said contention of the plaintiff that the documents were misplaced and then later obtained, is a vague assertion without any supporting material. Merely stating that the documents were "misplaced" does not amount for a sufficient cause and there ought to have been more diligence undertaken by the plaintiff at the time of filing of the suit. Therefore, the Trial Court has rightly rejected the application.

13. The object of the Act is to ensure the speedy disposal of the suits being commercial in nature and prevent any undue delay in such disposal. Hence, I am of the considered view that the petitioner herein has slept over the matter and only at the stage of evidence, he has sought for production of documents. Entertaining such an



application at this advanced stage of the proceedings, in the absence of any reasonable or *bona fide* justification, would not only compromise the discipline of procedural law but would also strike at the very foundation and object of the Act, which envisages a structured and time-bound mechanism for the speedy resolution of the commercial disputes. Permitting such belated recourse without sufficient cause would, therefore, frustrate the legislative intent underlying the enactment and cannot be countenanced by this Court. The application for production of documents as well as the affidavit accompanying the application are silent with regard to the relevancy of the documents sought to be produced and there is absolutely no reason for such an enormous delay in filing such an application and in the absence of meeting the requirements of law referred *supra*, the application for amendment cannot be allowed. In view of the preceding analysis, this Court need not go into the effect of Section 15(3) of the Act.



14. For the aforementioned reasons, I proceed to pass the following:

ORDER

The writ petition is devoid of merits and is hereby dismissed.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 2 Sl No.: 1