



CNR: KAHC010486012022

NC: 2026:KHC:39185
W.P. No.21084/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 28TH DAY OF JULY, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.21084/2022 (GM-CPC)

BETWEEN:

1. MR. OMAR ABDULLAH SAIT
S/O LATE MR. HAJEE ABDULLAH SAIT
AGED ABOUT 72 YEARS.
2. MRS. PARVEEN OMAR
W/O MR. OMAR ABDULLAH SAIT
AGED ABOUT 57 YEARS.
3. MR. ATEEF OMAR
S/O MR. OMAR ABDULLAH SAIT
AGED ABOUT 27 YEARS.

ALL ARE R/AT NO.30, 5th MAIN
JAYAMAHAL EXTENSION
BANGALORE 560 046.

...PETITIONERS

(BY SRI. JOSEPH ANTHONY, ADV.,)

AND:

M/S. HOMEVISTA DECOR AND
FURNISHINGS PVT LTD
A COMPANY INCORPORATED UNDER
THE PROVISION OF THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT
AWFIS, 3rd FLOOR, SAMRAH PLAZA
SHANTALA NAGAR, ASHOK NAGAR
ST. MARKS ROAD, BANGALORE 560001.

...RESPONDENT

(BY SRI. TARUNN SURANA, ADV.,)

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



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THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASHING THE IMPUGNED ORDER DATED SEPTEMBER 17, 2022 IN COM.OS.NO.421/2020 PASSED BY THE LD. LXXXVII ADDL. CITY CIVIL AND SESSIONS JUDGE, COMMERCIAL COURT, AT BANGALORE (ANNEXURE-A) ON IA NO.III VIDE ANNEXURE-A & ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

This writ petition is filed challenging the order dated 17.09.2022 on I.A.No.3 in Com.O.S.No.421/2020 by the LXXXVII Additional City Civil and Sessions Judge, Commercial Court, Bengaluru, (for short, **'the Commercial Court'**).

2. Sri.Joseph Anthony, learned counsel appearing for the petitioners submits that petitioners had filed the commercial suit in Com.O.S.No.421/2020 for declaration. In the said suit, the respondent filed the written statement. Thereafter, the respondent-defendant has filed an application under Order XI Rule 1(10) read with Section



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151 of the Code of Civil Procedure, 1908 (for short, '**the CPC**') seeking to produce the document/s, without showing sufficient cause as to why the document was not produced when the written statement was filed. However, the Commercial Court without understanding the scope and object of Order XI Rule 3 of the CPC as amended by the Commercial Courts Act, 2015, allowed the application. It is submitted that the affidavit in support of the application indicates that the defendant has stated that by inadvertence the document sought to be produced was not produced at the time of filing the written statement and the inadvertence is sheer negligence, hence, the same cannot be called as sufficient cause. In support of his contentions, he placed reliance on the following decisions:

- i. ***Levitate Mobile Technologies Private Limited v. Standard Chartered Bank***¹,
- ii. ***Bank of Baroda v. Gujarat Cables and Enamelled Products Pvt. Ltd.***²

¹ (2025) 1 HCC (Del) 442

² 2022 SCC OnLine Bom 4740



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iii. Anita Chhabra and others v. Surender Kumar³

***iv. Sudhir Kumar Alias S.Baliyan v. Vinay Kumar
G.B.⁴***

Hence, he seeks to allow the petition.

3. Per contra, Sri.Tarunn Surana, learned counsel appearing for the respondent supports the impugned order of the Commercial Court and submits that it is a case where the respondent-defendant has disclosed that it has sent emails, however, by inadvertence the defendant could not produce the document attached to one of the email which is dated 22.07.2020, thus, the same was sought to be produced on noticing that it is an inadvertent mistake. Hence, the Commercial Court considering the said aspect had rightly allowed the application which does not call for any interference. It is submitted that the issues were framed before the Commercial Court on 21.09.2022 and even before framing of the issues, on noticing that the attachment to the email is not produced, application is

³ (2022) 6 HCC (Del) 83

⁴ (2021) 13 SCC 71



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filed on 10.08.2022 and neither there is an intention to cause delay in the proceedings nor it would cause any prejudice to the other side. Hence, he seeks to dismiss the petition.

4. I have heard the arguments of learned counsel for the petitioners, learned counsel for the respondent and perused the material available on record.

5. The petitioners have filed the commercial suit in Com.O.S.No.421/2020 for declaration that the lease deed dated 14.01.2016 executed between the plaintiffs and defendant is valid and continues to subsist as in accordance with Clause 42 of the said lease deed dated 14.01.2016 and thereby binding the parties thereof and other reliefs. In the said commercial suit, the defendant filed a detailed written statement. Thereafter, the defendant filed an application in I.A.No.3 under Order XI Rule 1(10) read with Section 151 of the CPC seeking prayer to permit the defendant to produce the document



mentioned in the list annexed to the said application. The said application is accompanied with an affidavit supporting the prayer, wherein the reasons are assigned at para No.3 of the affidavit. A perusal of para No.3 of the said affidavit indicates that the deponent has stated that the defendant had issued a letter of handover to the plaintiff No.1 at the time of handing over the possession of the suit schedule premises to the plaintiff No.1 and also over email dated 22.07.2022, but the same has been inadvertently not been annexed along with the written statement and same has come to his knowledge now. The letter annexed is also perused.

6. The primary contention of the learned counsel for the petitioners-plaintiffs is that the cause shown is not a reasonable cause as interpreted by various High Courts and non-production of the document by inadvertence cannot be termed as a reasonable cause.



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7. The Order XI Rule 1(10) of the CPC reads as under:

"Order XI: DISCLOSURE, DISCOVERY AND INSPECTION OF DOCUMENTS IN SUITS BEFORE THE COMMERCIAL DIVISION OF A HIGH COURT OR A COMMERCIAL COURT

Rule 1: Disclosure and discovery of documents.-

(1) xxx

(2) xxx

(3) xxx

(10) Save and except for sub-rule 7(c)(iii), defendant shall not be allowed to rely on documents, which were in the defendant's power, possession, control or custody and not disclosed along with the written statement or counter claim, save and accept by leave of Court and such leave shall be granted only upon the defendant establishing reasonable cause for non-disclosure along with the written statement or counter claim."

(emphasis supplied)

8. The aforesaid sub-rule makes it very clear that the defendant shall not be allowed to rely on any documents which were in defendant's power, possession, control or custody and not disclosed along with the written statement or counter claim, save and accept by leave of the Court and such leave shall be granted only upon the



defendant establishing reasonable cause for non-disclosure along with the written statement or counter claim.

9. It is required to be noticed that the mandate of law is that the defendant shall not be allowed to rely on any documents in his defence if they are in his power, possession, control or custody and they are not disclosed along with the written statement. However, the exception is carved out in the said sub-rule that with the leave of the Court, the document can be produced on establishing reasonable cause for non-disclosure along with the written statement.

10. To appreciate the mandate of law, it is required to be noticed that the defendant, in para No.9 of the written statement, has stated as under:

"The Defendant issued a letter simultaneously upon vacating the suit Schedule Property recording the delivery of possession, the Plaintiff No.1 received the said letter informing that he shall get the same delivered to the Defendant after obtaining signatures from the Plaintiff Nos 2 and 3, co-owners of the suit Schedule Property. The Defendant also issued an email dated 20th July, 2020 and 22nd July, 2020 recording the that the Schedule Property has been



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vacated and the Plaintiff No. 1 has received the possession. Copy of the emails dated 20th July, 2020 and 22nd July, 2020 are annexed hereto and marked as Annexure 3 collectively."

(emphasis supplied)

11. The bare reading of the aforesaid averments in the written statement makes it clear that the defendant has specifically pleaded that the plaintiff No.1 has received the letter from the defendant when the possession was delivered, defendant also issued email dated 20.07.2020 and 22.07.2020, recording that the scheduled property has been vacated and the plaintiff No.1 has received the possession. A copy of the emails dated 20.07.2020 and 22.07.2020 are annexed hereto and marked as Annexure-3 collectively, the said Annexure-3 produced along with the written statement are enclosed along with the objection filed to the writ petition by the defendant which indicate that the email dated 22.07.2020 has an attachment and the same is not in dispute. It is contended that the said attachment to the email dated



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22.07.2020 is not enclosed along with the written statement due to inadvertence.

12. It is to be noticed that in para No.3 of the affidavit filed along with the application, the defendant states that he had issued a letter of handover to plaintiff No.1 at the time of handing over possession and also over email dated 22.07.2020 but the said document was inadvertently not annexed along with the written statement. It is required to be noticed that in the written statement the defendant has clearly stated that it has sent two emails which are dated 20.07.2020 and 22.07.2020 and in the application it has stated that by inadvertence the document i.e., attachment to email, is not annexed along with the written statement.

13. The aforesaid factual matrix indicates that though two emails have been sent with an attachment in one of the emails and the copies of the emails are produced, however, the attachment to the email is not



produced and in view of clear disclosure of two emails with a specific averment in the written statement, the first portion of sub-rule 10 of Rule 1 of Order XI of the CPC, does not apply as the defendant disclosed the documents in the written statement and the Commercial Court, while exercising its discretion, by accepting the cause shown, allowed the application by permitting to place the attachment to email before the Court. I do not find any error in the impugned order calling for interference in this petition.

14. It is to be noticed that the application is filed even before the framing of issues. Hence, it would not cause any prejudice to the other side as they have all the rights to cross-examine the witness on such documents. In a peculiar circumstance referred supra, the cause stated in the application as an inadvertent mistake, is required to be considered as a reasonable cause.



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15. Insofar as the decision relied on by the learned counsel for the petitioners referred supra are concerned, they are the cases where the applications were rejected considering the facts and circumstances in those cases. In the case on hand, the facts which are narrated supra clearly indicate that the defendant is contending that by inadvertence the defendant has not annexed the document, which was an attachment to the email dated 22.07.2020. Hence, the said decisions, on facts, are distinguishable and not applicable to the facts and circumstances of the present case.

16. Hence, the petition is devoid of merits and the same is accordingly ***rejected***.

No order as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE