



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

COMMERCIAL APPEAL NO. 645 OF 2025

BETWEEN:

INDIAN OIL CORPORATION LTD.,
A REGISTERED COMPANY,
HAVING ITS STATE OFFICE AT
INDIAN OIL BHAVAN, NO.29,
P KALINGA RAO ROAD (MISSION ROAD)
BANGALORE - 560027
BY ITS DIVISIONAL HEAD (DRH)

...APPELLANT

(BY SMT. AISHWARYA HEGDE, ADVOCATE FOR
SRI. GURURAJ R, ADVOCATE)

AND:

1. SRI SHIVA KUMAR KHENY,
S/O LATE SRI M M KHENY,
AGED ABOUT 76 YEARS,
2. SRI SIDDHARTH KHENY
S/O SHIVA KUMAR KHENY,
AGED ABOUT 47 YEARS

BOTH R/AT NO.27,
I BLOCK, II CROSS,
RMV II STAGE,

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH
COURT OF
KARNATAKA



BANGALORE - 560094

...RESPONDENTS
(BY SRI. NITIN PRASAD, ADVOCATE FOR R1 & R2)

THIS COMAP IS FILED UNDER SECTION 13 (1A) OF THE COMMERCIAL COURTS ACT, 2015 PRAYING TO SET ASIDE THE ORDER DATED 9.10.2025 PASSED ON IAN O.3 UNDER ORDER VII RULE 11(a) OF CPC., BY THE LXXXVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, COMMERCIAL COURT, BENGALURU (CCH-87), IN COM.OS NO.832/2025, INsofar AS REJECTING THE PLAINT BY ALLOWING THE SAID APPLICATION, AND TO CONSEQUENTLY RESTORE THE SUIT TO THE FILE OF THE COMMERCIAL COURT, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. Issue notice.
2. Sri Nitin Prasad, learned counsel accepts notice for the respondents.
3. With the consent of the learned counsel for the parties, the appeal was taken up for final hearing.



4. The appellant, Indian Oil Corporation Ltd. [**IOCL**], has filed the present appeal challenging an order dated 09.10.2025 passed by the LXXXVI Addl. City Civil & Sessions Judge, Commercial Court, Bengaluru (CCH-87) [**Commercial Court**] in Com O.S. No.832/2025. IOCL had instituted the said suit seeking specific performance of a registered Lease Deed dated 25.06.2004. The lease term was 20 years, commencing on 25.06.2004. Under the lease, IOCL was entitled to seek renewal three months before the lease's expiry. If such renewal was sought, the lease could be extended for a further period of five years on mutually acceptable terms.

5. It is the IOCL's case that three months prior to the expiry of the lease, they issued a letter dated 25.03.2024, seeking renewal of the lease. But had not received any response to the same. The respondents [arrayed as defendants] in the suit have filed a written statement disputing receipt of the said letter and have issued a legal notice dated 08.08.2024, calling upon the IOCL to vacate the lease premises.



6. In the aforesaid context, the defendants filed an I.A. No.3 under Order VII Rule 11(a) r/w Section 151 of the Code of Civil Procedure, 1908 [**CPC**] in Com. O.S. No.832/2025, which was allowed in terms of the impugned order and the plaint was rejected. The learned Commercial Court concluded that “the plaintiff did not disclose any valid cause of action to sue the defendant for specific performance”.

7. A plain reading of the impugned order indicates that the learned Commercial Court has faulted IOCL for not pleading that the letter dated 25.03.2024 was served and the manner of such service. The Commercial Court had also made an observation to the effect that non-service of the said letter was suppressed by clever pleadings.

8. We have heard the learned counsel for the parties.

9. It is well settled that the question whether the plaint is to be rejected under Order VII Rule 11(a) of the CPC must be determined on the basis of the averments made in the plaint and the documents filed by the plaintiff. There is no scope for examining the defence raised by the defendants. In the case of



Saleem Bhai and Others Vs. State of Maharashtra and Others

reported in (2003) 1 SCC 557, the Supreme Court had observed

as under:

“9. A perusal of Order 7 Rule 11 CPC makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power under Order 7 Rule 11 CPC at any stage of the suit — before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order 7 Rule 11 CPC cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court. The order, therefore, suffers from non-exercising of the jurisdiction vested in the court as well as procedural irregularity. The High Court, however, did not advert to these aspects.”

10. In the present case, if the averments made in the plaint are accepted, the plaint could not be rejected on the ground that it did not disclose a cause of action. Plainly, the plaint could not be rejected at this stage on the basis that the IOCL had not proved service of the letter dated 25.3.2024.

11. Learned counsel for the defendants fairly stated that the same could not be the reason for the rejection of the plaint. He, however,



submitted that even if it is accepted that the letter dated 25.03.2024 was issued and served by the IOCL, it was issued one day short of the three-month period required under the lease deed. Thus, the IOCL has forfeited its right to seek renewal of the lease. He also submitted that there is no material on record to indicate that a letter dated 25.03.2024 was served, despite the respondents specifically disputing service of the said notice.

12. In our view, it is not necessary to examine the said contention in this appeal, considering that the impugned order rests solely on the ground that the IOCL had not established service of the letter dated 25.03.2024 seeking renewal of the lease.

13. Before concluding, we also observe that the contentions raised on behalf of the defendants are not insubstantial, but the same do not present grounds for rejection of the plaint under Order VII Rule 11(a) CPC. The amendments to the CPC, as introduced by virtue of the enactment of the Commercial Courts Act, 2015, also enable parties in appropriate cases to file an application for decree/dismissal of the suit if it is established that the plaintiff has no real prospect of succeeding or the defendant has no real



prospect of successfully defending the claim [Order XIII A CPC]. However, insofar as Order VII Rule 11 of CPC is concerned, it is not permissible to examine the defence and dismiss the suit on the said basis.

14. In view of the above, the present appeal is required to be allowed. The impugned order is unsustainable and is accordingly set aside.

15. Suit is restored on the file of the Commercial Court. The parties shall appear before the Commercial Court on 18.02.2026.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C.M. POONACHA)
JUDGE

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