



A.No.2950 of 2024 in
C.S.(Comm. Div.) No.108 of 2023

WEB CO **SENTHILKUMAR RAMAMOORTHY,J**

By this application, the applicant seeks leave to bring on record the additional documents listed in the schedule to the Judge's summons.

2. Learned counsel for the applicant submits that these documents were filed during the interlocutory proceedings. While filing the written statement in response to the counter claim, it is stated that the documents were not filed on account of oversight. He also submits that the defendants had copies of these documents and, in fact, took inspection of the originals.

3. Learned counsel for the respondents/defendants opposes this application by relying on Order XI Rule 1(4) and (5) of the Code of Civil Procedure, as applicable to commercial disputes. He also relies on the judgment of the Hon'ble Supreme Court in *Sudhir Kumar alias S.Baliyan v. Vinay Kumar G.B., (2021) 13 SCC 71*, for the proposition that leave under Order XI Rule 1(5) should not be granted unless the plaintiff establishes



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reasonable cause for non disclosure. According to learned counsel, inadvertence does not constitute a reasonable cause.

4. In response, learned counsel for the plaintiff submits that leave is being sought under Order XI Rule 1(10) and not under Order XI Rule 1(5).

5. Whether leave is sought under Order XI Rule 1(5) or (10), the applicant is required to establish reasonable cause. In the affidavit, the applicant states that these documents were filed in interlocutory proceedings and that reliance thereon has become necessary in view of the defence raised in the written statement-cum-counter claim. It is also stated that these documents were inspected by the defendants earlier. The suit is at the pre-trial stage. When all these facts and circumstances are considered cumulatively, I am of the view that the reasonable cause is established.

6. Consequently, this application is allowed on the following terms:

(i) The defendants are permitted to file the affidavit of admission/denial in respect of these additional documents.



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(ii) These documents are permitted to be brought on record subject to the rights of the defendants to raise objections *inter alia* on the grounds of admissibility, relevance and proof in course of trial.

7. List the suit on 02.09.2024.

12.08.2024

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