



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 17.09.2025

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THE HONOURABLE **MR.JUSTICE N. SENTHILKUMAR**

A.No.1078 of 2025
in C.S.(Comm.Div)No.117 of 2024

M/s.Indian Oil Corporation Limited,
Represented by its Authorized Agent and Senior Manager
(Retail Sales), Having its State Head Office at
No. 139, Nungambakkam High Road,
Chennai-34.

... Applicant/Plaintiff

-VS-

1. K.Deivanayagam (deceased)
Sole proprietor, Calpana Service Station,
No.69, Convent street, Nellithope,
Puducherry-605 005.

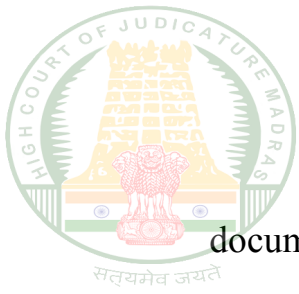
1. D.Calpana,
No.69, Convent street, Nellithope,
Puducherry-605 005.

2. D.Dinesh Menon
No.69, Convent street,
Nellithope, Puducherry-605 005.

3. D. Dileep Kumar
No. 69, Convent Street,
Nellithope, Puducherry-605 005.

... Respondents/Defendants

Prayer: Application is filed to permit the applicant/plaintiff to file additional



documents.

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For Applicant : Mr. Mohammed Fayaz Ali

For Respondents : Mr.K.R.Arun Shabari

ORDER

Heard the learned counsel appearing for the applicant and the learned counsel appearing for the respondents.

2. The present application has been filed under Order VIII Rule 1A of the Civil Procedure Code, 1908 (In short, 'CPC'). By this application, the applicant seeks permission to mark additional documents dated 13.09.2017, 28.09.2017, 09.02.2018, 12.03.2018 & 13.04.2018.

3. Learned counsel for the applicant submits that he filed an application for amendment of the plaint and enhancement of the claim amount and the same was allowed by the Commercial Court. The documents sought to be marked were not in his possession at the time of filing of the suit. Now they are necessary to substantiate the enhanced claim.



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In support of his contention, he relied on the judgment of the Hon'ble Supreme Court in *Sudhir Kumar Alias S.Baliyan v. Vinay Kumar G.B.*, reported in (2021) 13 SCC 71.

4. The application is strongly opposed by learned counsel for the respondents. The respondents filed a counter affidavit stating that since the suit was filed before the Commercial Division Bench, the provisions under Order XI Rule 7 of the CPC, Order VII Rule 14 of the CPC and Order VIII Rule 1A of the CPC are not applicable. Therefore, the present application filed under Order VIII, Rule 1A of the CPC is not maintainable. Further, it is averred that after the matter has been proceeded for recording evidence, an application filed for marking of documents is not maintainable. Therefore, he prays for dismissal of this application.

5. In paragraph 10.1 of the judgment of the Hon'ble Supreme Court in *Sudhir Kumar Alias S.Baliyan v. Vinay Kumar G.B.*, reported in (2021) 13 SCC 71, it is observed as under:



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“10.1 It emerges from the record that the first suit was filed by the plaintiff in the month of October 2018, bearing TM No.236 of 2018, restraining the defendant from infringing and passing-off plaintiff's trade marks. That an ex parte interim injunction was passed in favour of the plaintiff by the order dated 29.10.2018. It appears having realised and found that the earlier suit was not in consonance with the provisions of the Commercial Courts Act, the plaintiff withdrew the said suit being TM No.236 of 2018 on 27-7-2019 with liberty to file a fresh suit as per the Commercial Courts Act, 2015. Therefore, the second suit was filed on 31-8-2019 and within a period of thirty days from filing of the second suit the appellant herein, original plaintiff preferred the present application seeking leave of the Court to file additional documents. In the application, it was specifically mentioned that so far as the invoices are concerned, the same were not in its possession at the time of the filing of the plaint and so far as the other documents are concerned they were not filed due to they being voluminous. Therefore, so far as the invoices sought to be relied on/produced as additional documents ought to have been permitted to be relied on/produced as it was specifically asserted that they were



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*not in his possession at the time of filing of the
plaint/suit. ”*

In the judgment cited supra, the Hon'ble Supreme Court has held that the documents sought for by the applicant to mark as exhibits were not in his possession at the time of filing of the suit and some of the documents were not filed due to their voluminous nature. In the present case, the documents were not in the possession of the applicant at the time of filing of the suit and they came to be in existence subsequent to filing of the suit.

6. In view of the above, this application stands allowed and the applicant is permitted to mark the documents specified in the Judge's summons.

7. List this matter before the learned Additional Master No.IV on 10.10.2025 for marking of additional documents.

17.09.2025

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N.SENTHILKUMAR,J.

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