



A.No.2640 of 2025
in C.S.(Comm.Div) No.146 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2025

CORAM

THE HONOURABLE MR.JUSTICE N. SENTHILKUMAR

A.No.2640 of 2025

in

C.S.(Comm.Div.) No.146 of 2023

M/s. KCP Infra Limited,
Formerly Known as “KCP Engineers Ltd.”,
7A - 7th Floor, Caledon Square,
Avinashi Road, Peelamedu,
Coimbatore – 641 004.

... Applicant/Plaintiff

Versus

The Superintending Engineer,
National Highways,
TNSCC Complex, Jai Nagar,
Arumbakkam, Chennai – 106.

... Respondent/Defendant

PRAYER: Application filed under Order XIV Rule 8 of Original Side r/w Order XVI Rule 14 of Code of Civil Procedure, 1908, prayed to issue Subpoena to the Divisional Engineer National Highways TNSCC complex, Jai Nagar, Arumbakkam, Chennai 600 106, produce all records and

1/5



A.No.2640 of 2025
in C.S.(Comm.Div) No.146 of 2023

documents especially 'M-Book' stage wise photographs of suit project site and any other document with respect to the suit project.

For Applicant : Mr. T. Sri Krishna Bhagavat

For Respondent : Mr. R. Ramanlal, Additional Advocate General,
Asst. by Mr.T. Arun Kumar, Special Govt. Pleader.

ORDER

This application has been filed under Order XIV Rule 8 of the Original Side read with Order XVI Rule 14 of Code of Civil Procedure, 1908, seeking issuance of a Subpoena to the Divisional Engineer, National Highways TNSCC complex, Jai Nagar, Arumbakkam, Chennai 600 106, with regard to the production of 'M – Book', stage wise photographs of suit project site, and any other related documents with respect to the suit project.

2. According to the applicant, during the course of cross-examination, D.W.1 deposed that only the Divisional Engineer was aware of the reasons for the delay and that such details were available in the 'M-Book'. On this basis, the applicant has filed the present application seeking issuance of a Subpoena.



A.No.2640 of 2025
in C.S.(Comm.Div) No.146 of 2023

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3. Mr. Ramanlaal, learned Additional Advocate General appearing for the respondent/defendant submits that the applicant cannot take advantage based on the reply given by D.W.1 during the cross-examination and file an application for issuance of Subpoena. It is contended that such plea has to be made in the plaint by assigning the reason for the delay, cause of the delay and the person who is responsible for the cause of delay. It is his further case that the plaint is silent with regard to the 'M-Book', stage wise photographs of the suit project and details which is sought under the present application. Therefore, the application cannot be entertained.

4. I have heard the learned counsel appearing for both sides.

5. The only point for consideration is whether the present Subpoena application can be allowed in view of the specific claim that during cross-examination, D.W.1 has asserted that the reason for the delay can be explained only by the Divisional Engineer and that D.W.1, himself is unaware of the reasons.



A.No.2640 of 2025
in C.S.(Comm.Div) No.146 of 2023

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6. Unless and until there is a specific plea in the plaint, such an application cannot be filed to fill up the lacuna in the case of the plaintiff. Admittedly, the plaintiff has not averred anything about the 'M-Book' and availability of stage wise photographs of the suit project in the plaint. Without specifying whether such photographs are available with the respondent/defendant, a bald prayer with regard to the production of 'M-Book' and stage wise photographs of the suit project and the prayer seeking any other documents related to the said project, is nothing but an attempt to fill up the lacuna. Therefore, the present application is devoid of merits and is dismissed accordingly.

26.11.2025
(1/2)

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N. SENTHILKUMAR, J.

4/5



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A.No.2640 of 2025
in C.S.(Comm.Div) No.146 of 2023

klt

A.No.2640 of 2025
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C.S.(Comm.Div.) No.146 of 2023

26.11.2025
(1/2)