



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 14.07.2025

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.3261 of 2025 in

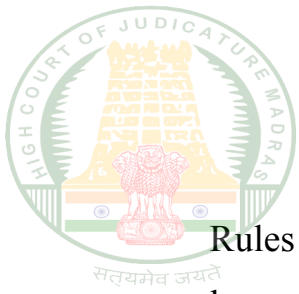
C.S.(Comm.Div.) No.254 of 2022

M/s.Rainbow Hospitals, Represented by its Partners
R.Kumaravel, G.Jayamala, E.Karbagavalli, A.Selvabharathy, C.Palaniappan,
M.Senthil kumar and P.Dhinakar, D.No.25, B-20, Rajaji Street, Swarnapuri,
Alagapuram Village, S.No.98/6A, Salem West Taluk, Salem District 636
004. ... Applicant/1st Defendant

-VS-

1. Rainbow Children's Medicare Limited
Represented by its Authorized Signatory Vamsi Krishna, 8-2-120/1031,
Survey No.403, Road No.2, Banjara Hills, Hyderabad 500 034,
also at 157, Anna Salai, Little Mount Guindy, Chennai, Tamil Nadu 600 015
(Amended vide Order dated 14.03.2023 in A.No.1149 of 2023
... 1st Respondent/Plaintiff

2. Public Domain Registry
501, IT Building No.3, NESCO IT Park,
NESCO Complex, Western Express Highway,
Gurgaon (East), Mumbai-400 063,
Maharashtra, India. ... 2nd Respondent/2nd Defendant
Prayer: Application is filed under Order XIV Rule 8 of the Original Side



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Rules Read With Order VIII Rule 1A and Section 151 of the CPC, to grant leave to the applicant/1st defendant to file additional documents and consequently receive the same into evidence in the above captioned suit on the file of this Court.

For Applicant : Ms.Aanchal M.Nichani
for Mr.N.V.Saisunder

For R1 : Mr.M.S.Bharath

ORDER

By this application, the 1st defendant seeks leave to file the additional document described in the Judge's summons. The suit is at the trial stage and the evidence of D.W.1 was recorded in full on 18.06.2025.

2. In the affidavit in support of this application, it is stated that P.W.1 was evasive in course of cross-examination with regard to events which were, according to the 1st defendant, sponsored by the plaintiff's branch hospital in Bangalore. In support of this assertion, learned counsel for the 1st defendant referred to the cross-examination of P.W.1 on 13.06.2025, particularly the answers to questions 65 to 74. Since the principal defence of the 1st defendant is acquiescence, learned counsel submits that it is critical

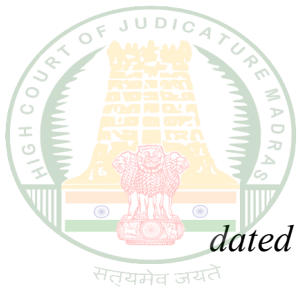


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for the 1st defendant to be permitted to file the additional document. She also submits that the document would be exhibited through D.W.2, whose examination is yet to commence.

3. The application is strongly opposed by learned counsel for the plaintiff. Learned counsel refers to the counter affidavit and points out the sequence of dates and events. After submitting that the case management schedule was fixed on 09.04.2025, learned counsel submits that P.W.1 was cross-examined between 11.06.2025 and 13.06.2025. He also submits that the witness could have been confronted with this document, but the 1st defendant failed to do so. He also points out that D.W.1 was cross-examined extensively by him between 17.06.2025 and 18.06.2025 and that about 143 questions were put to D.W.1. According to learned counsel, there is no justification for filing this application at this juncture.

4. In support of the above contentions, learned counsel refers to and relies upon the judgement of the Supreme Court in *Sudhir Kumar @ S.Baliyan v. Vinay Kumar G.B., Civil Appeal No.5620 of 2021, judgment*



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dated 15.09.2021. He also relies upon the judgment of this Court in A.No.2556 of 2017 in C.S.No.405 of 2014, order dated 24.07.2017. Other judgments on this issue have also been submitted by learned counsel.

5. On perusal of the written statement of the defendants, it is evident that the 1st defendant has pleaded acquiescence, delay and laches. Issues were also framed in respect of acquiescence, delay and laches.

6. During cross-examination on 13.06.2025, P.W.1 was questioned as to whether the sponsor of an event of the 1st defendant was a branch hospital of the plaintiff. P.W.1 replied that he did not know. Similar answers were given by P.W.1 with regard to whether Dr.Rajath Athreya and Dr.Kalyan Chakravarthy were part of the plaintiff hospital.

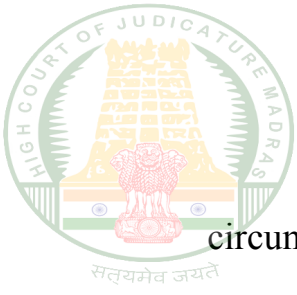
7. Under Order XI Rule 1 of the Code of Civil Procedure, 1908, as applicable to commercial disputes, a defendant is not permitted to rely on documents, which were in its power, possession, control or custody at the time of filing the written statement, but were not filed then. The exception to



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this embargo is if leave is applied for and granted subject to reasonable cause. The document proposed to be filed by the 1st defendant is in the form of printouts from the plaintiff's website. This document was not in the possession, custody or control of the 1st defendant. Being a website that is accessible to the public, it is, however, a document accessible to the 1st defendant. It would, therefore, fall substantially within the scope of the expression 'power'.

8. As noticed above, the justification of the 1st defendant is that P.W.1's answers were evasive. The answers of P.W.1 were discussed above and in light thereof, the contention of the 1st defendant cannot be brushed aside. Learned counsel for the plaintiff's contention that P.W.1 could have been confronted with this document is valid. Solely for such reason, this application cannot, on balance, be rejected. The 1st defendant proposes to exhibit the document through D.W.2, whose examination has not commenced. By taking into account the fact that acquiescence is a principal defence of the 1st defendant; and such defence was expressly pleaded in the written statement along with documents in support thereof, in the facts and



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circumstances outlined above, although the application has been filed after the examination of D.W.1 was concluded, reasonable cause is shown subject to the conditions specified below.

9. Therefore, this application is allowed on the following terms:

(i) The proof affidavit of D.W.2 shall be served on learned counsel for the plaintiff latest by 21.07.2025.

(ii) The examination of D.W.2 shall be commenced and concluded on or before 08.08.2025.

(iii) The plaintiff is permitted to file an affidavit of admission/denial in respect of this additional document and raise objections, *inter alia*, on the grounds of admissibility, relevance and proof in course of trial.

(iv) If the above time lines are not adhered to, the 1st defendant shall pay costs of Rs.50,000/- (Rupees Fifty thousand only) to the plaintiff.

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SENTHILKUMAR RAMAMOORTHY,J

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