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A.Nos.6576 of 2024 & 62 of 2025 in

C.S(Comm.Div)No.88 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

A.Nos.6576 of 2024 & 62 of 2025 in

C.S(Comm.Div)No.88 of 2024

M.Rajesh Kumar, Proprietor of R K Pharma Distributors
New No 825, Old No 439/6, EVR Periyar Salai,
Kolaperumal School Street, Arumbakkam, Chennai 600 106.
... Applicant/Plaintiff

vs.

M/s.ARC International Fertility and Research Center Private Limited
Represented by its Managing Director, Nos.22/2 and 22/3, ESI Hospital
Road, Pervallur, Chennai 600 011. .. Respondent/Defendant

For Applicant :Mr.H.Karthik Seshadri

For Respondent : Mr.Abdul Hameed, Senior Counsel
for M/s.AAV Partner

COMMON ORDER

Both these applications have been presented by the plaintiff. In

A.No.6576 of 2024, the plaintiff seeks permission to file the four



A.Nos.6576 of 2024 & 62 of 2025 in

C.S(Comm.Div)No.88 of 2024

additional documents described in the schedule to the Judge's summons.

A.No.62 of 2025 has been filed to direct the defendant to produce the three documents requested for in notice to produce dated 10.12.2024.

2.Learned counsel for the plaintiff submits that the suit claim is in respect of goods supplied but not paid for. After pointing out that the written statement was filed belatedly and taken on record only on 23.10.2024, he submits that A.No.6576 of 2024 was necessitated by the defences raised in such written statement. He submits that the defences are non supply of goods and dispute regarding price. Therefore, he submits that documents establishing price and that supply was actually made by the plaintiff to the defendant are sought to be filed. As regards A.No.62 of 2025, he submits that the documents requested for from the defendant, if produced, would be material in establishing that supply was indeed made to the defendant.

3.In response to these contentions, learned senior counsel for the respondent/defendant submits that the dispute between the parties with regard to the alleged supply has subsisted since 2021 and that



A.Nos.6576 of 2024 & 62 of 2025 in

C.S(Comm.Div)No.88 of 2024

C.S.No.286 of 2021 was filed both against the plaintiff and ex-employees of the defendant. He further submits that non supply and over priced supply in collusion with the ex-employees were raised in those earlier proceedings. Consequently, he contends that the plaintiff should have filed these documents at the time of presentation of the plaint. In effect, his contention is that the plaintiff has failed to establish reasonable cause for seeking to file these documents at this juncture. In support of this contention, learned senior counsel relies upon the judgment of the Supreme Court in *Sudhir Kumar Alias S.Baliyan v. Vinay Kumar G.B.*, (2021) 13 SCC 71, particularly paragraphs 9 & 10 thereof.

4.As regards A.No.62 of 2025, learned senior counsel submits that a party is only entitled to request for the production of documents referred to in the pleadings of the party requested to produce documents. In support of this contention, learned senior counsel relies upon appendix C, which is the form for production of documents.

5.Upon completion of pleadings, issues were framed on 25.11.2024 and a case management schedule was drawn up on the same



A.Nos.6576 of 2024 & 62 of 2025 in

C.S(Comm.Div)No.88 of 2024

date. A.No.6576 of 2024 was filed on or about 06.12.2024, which is subsequent thereto. The documents that the plaintiff seeks permission to rely upon are documents relating to the price at which the plaintiff procured the relevant pharmaceutical products from the manufacturer and other documents relating to the supply of such goods by the plaintiff to the defendant. These documents appear to be clearly relevant to the suit claim. Under Order XI of the Code of Civil Procedure (C.P.C.), as applicable to commercial disputes, the plaintiff is required to file all documents in its power, possession, control or custody at the time of filing the plaint. One of the exceptions to this requirement is, if documents are produced by the plaintiff only in answer to a case set up by the plaintiff subsequently. This is provided for in clause (c)(ii) of Rule 1(1) of Order XI of the C.P.C. In addition, the plaintiff is also permitted to seek leave of the Court under sub-rule (5) of Order XI Rule 1.

6.In the written statement, the defendant has denied both receipt of goods and the price claimed under the relevant invoices. Although the defendant contends that the invoices were disputed even in earlier proceedings between the parties, subject to being put on terms for filing



A.Nos.6576 of 2024 & 62 of 2025 in

C.S(Comm.Div)No.88 of 2024

A.No.6576 of 2024 after the case management schedule was fixed, it cannot be said that the plaintiff has not established reasonable cause. The plaintiff also has an arguable case under clause (c)(ii) of sub-rule (1) of Order XI Rule 1.

7.As regards A.No.62 of 2025, in the counter affidavit, the defendant states that GSTR 2B returns were not required to be filed during the relevant period. As regards GSTR 2A returns, it is stated that the said returns are not material because they are auto-populated upon the plaintiff filing the corresponding GSTR 1 return. As regards the GSTR 3B returns, it is stated that they pertain to all the transactions of the defendant.

8.Learned senior counsel for the defendant contended that only documents referred to in the pleadings of a party may be requested to be produced. Sub-rule (1) of Rule 5 of Order XI of the C.P.C., as applicable to commercial disputes, is as under:

“5.Production of documents.-(1) Any party to a proceeding may seek or the Court may order, at any



A.Nos.6576 of 2024 & 62 of 2025 in

C.S(Comm.Div)No.88 of 2024

time during the pendency of any suit, production by any party or person, of such documents in the possession or power of such party or person, relating to any matter in question in such suit.”

From sub-rule (1) of Order XI Rule 5, it is clear that a party may seek production by any party of documents in the possession or the power of such party, if relating to any matter in question. Given the language of sub-rule (1) of Order XI Rule 5, it cannot be said that such request should be limited to documents referred to in the pleading. In other words, the language of the form cannot dictate or control the provision.

9.Since the defendant states that GSTR 2B returns were not filed during the relevant period, the defendant cannot be called upon to produce the same. The other documents, namely, GSTR 2A and 3B returns for the relevant period shall be filed.

10.Accordingly, A.No.6576 of 2024 stands disposed of as follows:

The plaintiff is permitted to file the documents described in the schedule to the Judge's summons in A.No.6576 of 2024 subject to



A.Nos.6576 of 2024 & 62 of 2025 in
C.S(Comm.Div)No.88 of 2024

payment of a sum of Rs.15,000/- (Rupees Fifteen thousand only) as costs to the defendant within two weeks from the date of receipt of a copy of this order. This is also subject to right of the defendant to file an affidavit of admission/denial in respect of these documents and raise objections, *inter alia*, on the grounds of admissibility, relevance and proof in course of trial.

11.A.No.62 of 2025 is allowed by directing the defendant to produce the GSTR 2A and 3B returns for the period indicated in the notice to produce. While producing the GSTR 3B returns, it will be open to the defendant to redact information relating to transactions not concerning the plaintiff. These documents shall be produced within two weeks from the date of receipt of a copy of this order.

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12.02.2025
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C.S(Comm.Div)No.88 of 2024

SENTHILKUMAR RAMAMOORTHY,J.

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A.Nos.6576 of 2024 & 62 of 2025 in
C.S(Comm.Div)No.88 of 2024

12.02.2025
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