



CR-4416-2024

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-4416-2024 (O&M)
Reserved on : 19.03.2026
Pronounced on : 27.04.2026
Uploaded on : 30.04.2026

M/s Nagarro Inc.

...Petitioner

Versus

M/s Citixsys Limited

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Chetan Mittal, Sr. Advocate, with
Mr. Abhinav Sood, Advocate,
Ms. Aishani Das, Advocate,
Mr. Ritvik Garg, Advocate,
Ms. Achintaya Soni, Advocate,
Ms. Anmol Gupta, Advocate,
for the petitioner(s).

Mr. Akshay Bhan, Sr. Advocate with
Mr. Nilesh Bhardwaj, Advocate,
for the respondent(s).

HARPREET KAUR JEEWAN, J.

1. The petitioner-defendant is aggrieved against the order 16.07.2024, passed by the Exclusive Commercial Court, Gurugram (*for short, 'the Commercial Court'*) allowing the respondent-plaintiff to amend the plaint.

2. The relevant facts are that the respondent-plaintiff filed a suit before the Commercial Court for declaration to the effect that the contract entered *inter se* the parties stood discharged on account of the alleged breach. Along with the plaint, Statement of Truth and list of documents were also filed. Written statement was filed by the



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defendant along with Statement of Truth. Issues were framed and the Commercial Court fixed schedule for both the parties to lead evidence. The respondent-plaintiff moved an application seeking production of certain documents, which was dismissed as withdrawn (Annexure P-6) and thereafter, another application was moved for placing on record additional documents, which was also dismissed (Annexure P-7).

2.1 The application (Annexure P-10) filed by the respondent-plaintiff seeking amendment of the plaint was allowed. The proposed amendment which has been allowed is as under:-

"XXXXXXX

11(a). That email dated 27th of August, 2019 appended to this application was dispatched by Mr. Varun Malik who was then functioning with M/s Nagarro Software Private Limited whereby he attached a project document for iVend Load and Memory Testing. The aforesaid email and the attachment thereof have been appended. In fact, the plaintiff had permitted a large number of officials who were functioning for defendant (names mentioned in the list attached) to use the email identity of the plaintiff specifically for the completion of the project awarded to the defendant.

11(b). That thereafter, another email dated 27th of August, 2019 was dispatched by Mr. Varun Malik of defendant admitting that architecture team was having performance tuning issues which required resolution. In the same email Mr. Varun Malik committed that he would be able to provide a performance report for 100,000 customers latest by 9th of September, 2019. Mr. Varun Malik had also shared with the plaintiff the chain of emails substantiating the alleged efforts of the architecture team in the said direction.

11(c). That however, it transpired that the application developed by the defendant was unable to even take a



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minimum load of 100,000 tenants at any given point of time. Upon discovery of this startling fact the Board of the plaintiff was extremely concerned and had dispatched email dated 28th of August, 2019 wherein it was mentioned that the said email ought to be treated as 30 days notice of termination. However, in utmost fairness the plaintiff had conveyed to the defendant that a detailed review would be undertaken by its officials on 26th of September, 2019 with regard to the project/product health. A period of 3 weeks was afforded to the defendant to ensure that the framework developed by the defendant was able to take load of 100,000 tenants. The defendant was however unable to rectify the aforesaid defect in the program which left the plaintiff with no other option but to cancel the project."

2.2 The Commercial Court allowed the aforesaid amendment while observing that such amendment is only explanatory in nature and it is necessary for proper adjudication of the dispute; in the original suit also, there are pleadings that the defendant did not do the assigned work and so, the notice of termination was issued to it; by adding para Nos.11(a) to 11(c) to the plaint, the plaintiff only wants to explain the facts and no new relief or cause of action has been added by way of the amendment. The Commercial Court further observed that the documents sought to be tendered along with the amended pleadings are based on the pleadings of the amended plaint and such documents were not disallowed for being taken on record earlier, while dismissing an earlier application moved by the plaintiff for tendering certain documents on record.



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3. Learned Senior counsel appearing on behalf of the petitioner-defendant contends that earlier application moved by the plaintiff seeking permission to place on record the additional documents was dismissed. Thereafter, an application seeking amendment of the pleadings has been filed. Under the garb of such amendment, the plaintiff-respondent wants to place on record the additional documents, whereas certain additional documents were not permitted to be placed on record earlier. It is further contended that the suit was filed way back on 21.07.2020; along with the suit, a list of 36 documents was also filed; and issues have already been framed.

3.1 Learned Senior counsel further contends that the Commercial Courts Act, 2015 (*hereinafter referred to as 'the Act'*) prescribes specific timelines for filing of pleadings and documents. While framing issues on 17.10.2023 (Annexure P-8), the trial Court has given liberty to both the parties to move any misc. applications before 07.11.2023. On 22.04.2024 (Annexure P-9), the Commercial Court has fixed the schedule of plaintiff evidence as well as schedule for defendant evidence. The application seeking amendment has been filed violating the said timeline. Citing a decision by the High Court of Bombay in *Khanna Rayon Industries Pvt. Ltd. vs. Swastik Associates and Others*, 2023 SCC Online Bombay 1372, it is contended that the documents sought to be filed along with the amended pleadings were neither filed along with the plaint, nor thereafter and in case such an application for amendment is allowed, it would be violative of the timelines fixed under the Act. There is nothing in the application filed



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on behalf of the respondent-plaintiff to show that such documents were not within the knowledge and possession of the respondent earlier, as such, rigor of Order XI of the Code of Civil Procedure, 1872 (*for short, 'the CPC'*), as amended and made applicable to the Commercial suits, would be applicable and the amendment could not have been allowed. Amended Order XI Rule 1 CPC (as applicable to commercial disputes) is as under:-

“ORDER XI

***DISCLOSURE, DISCOVERY AND INSPECTION OF
DOCUMENTS IN SUITS BEFORE THE COMMERCIAL
DIVISION OF A HIGH COURT OR A COMMERCIAL COURT***

1. Disclosure and discovery of documents.—

(1) Plaintiff shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the plaint, including:—

(a) documents referred to and relied on by the plaintiff in the plaint;

(b) documents relating to any matter in question in the proceedings, in the power, possession, control or custody of the plaintiff, as on the date of filing the plaint, irrespective of whether the same is in support of or adverse to the plaintiff's case;

(c) nothing in this Rule shall apply to documents produced by plaintiffs and relevant only—

(i) for the cross-examination of the defendant's witnesses, or

(ii) in answer to any case set up by the defendant subsequent to the filing of the plaint, or

(iii) handed over to a witness merely to refresh his memory.



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(2) The list of documents filed with the plaint shall specify whether the documents in the power, possession, control or custody of the plaintiff are originals, office copies or photocopies and the list shall also set out in brief, details of parties to each document, mode of execution, issuance or receipt and line of custody of each document.

(3) The plaint shall contain a declaration on oath from the plaintiff that all documents in the power, possession, control or custody of the plaintiff, pertaining to the facts and circumstances of the proceedings initiated by him have been disclosed and copies thereof annexed with the plaint, and that the plaintiff does not have any other documents in its power, possession, control or custody.

Explanation.—A declaration on oath under this sub-rule shall be contained in the Statement of Truth as set out in the Appendix.

(4) In case of urgent filings, the plaintiff may seek leave to rely on additional documents, as part of the above declaration on oath and subject to grant of such leave by Court, the plaintiff shall file such additional documents in Court, within thirty days of filing the suit, along with a declaration on oath that the plaintiff has produced all documents in its power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff and that the plaintiff does not have any other documents, in its power, possession, control or custody.

(5) The plaintiff shall not be allowed to rely on documents, which were in the plaintiff's power, possession, control or custody and not disclosed along with plaint or within the extended period set out above, save and except by leave of Court and such leave shall be granted only upon the plaintiff establishing reasonable cause for non-disclosure along with the plaint.

(6) The plaint shall set out details of documents, which the plaintiff believes to be in the power, possession, control or custody of the defendant and which the plaintiff wishes to rely upon and seek leave for production thereof by the said defendant.

(7) The defendant shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the written statement or with its counterclaim if any, including—



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(a) the documents referred to and relied on by the defendant in the written statement;

(b) the documents relating to any matter in question in the proceeding in the power, possession, control or custody of the defendant, irrespective of whether the same is in support of or adverse to the defendant's defence;

(c) nothing in this Rule shall apply to documents produced by the defendants and relevant only—

(i) for the cross-examination of the plaintiff's witnesses,

(ii) in answer to any case set up by the plaintiff subsequent to the filing of the plaint, or

(iii) handed over to a witness merely to refresh his memory.

(8) The list of documents filed with the written statement or counterclaim shall specify whether the documents, in the power, possession, control or custody of the defendant, are originals, office copies or photocopies and the list shall also set out in brief, details of parties to each document being produced by the defendant, mode of execution, issuance or receipt and line of custody of each document.

(9) The written statement or counterclaim shall contain a declaration on oath made by the deponent that all documents in the power, possession, control or custody of the defendant, save and except for those set out in sub-rule (7) (c) (iii) pertaining to the facts and circumstances of the proceedings initiated by the plaintiff or in the counterclaim, have been disclosed and copies thereof annexed with the written statement or counterclaim and that the defendant does not have in its power, possession, control or custody, any other documents.

(10) Save and except for sub-rule (7) (c) (iii), defendant shall not be allowed to rely on documents, which were in the defendant's power, possession, control or custody and not disclosed along with the written statement or counterclaim, save and except by leave of Court and such leave shall be granted only upon the defendant establishing



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reasonable cause for non-disclosure along with the written statement or counterclaim.

(11) The written statement or counterclaim shall set out details of documents in the power, possession, control or custody of the plaintiff, which the defendant wishes to rely upon and which have not been disclosed with the plaint, and call upon the plaintiff to produce the same.

(12) Duty to disclose documents, which have come to the notice of a party, shall continue till disposal of the suit.”

3.2 Learned Senior counsel also cites “Nitin Gupta vs. Texmaco Infrastructure and Holding Ltd.”, 2019 SCC Online DEL. 8367; “Zee Entertainment Enterprises Ltd. Vs. Saregama India Ltd.”, 2019 SCC Online DEL. 10215; “Eastern Fashion (India) vs. United India Insurance Company and Another”, 2023 SCC Online DEL. 4662; “Nioti Chanda vs. SFML Infra Limited”, 2023 SCC Online CAL 2390; “TTK Prestige Ltd. vs. Bhagla Sanitaryware Pvt. Ltd.”, 2024 SCC Online DEL. 882 and “Ethiopian Airlines vs. Ganesh Narayan Sabo”, (2011) 8 SCC 539.

3.3 *Per contra*, learned Senior counsel representing the respondent-plaintiff contends that the amendment has been permitted by the Court as per the principles laid down by the Hon’ble Apex Court in “Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and Another”, 2023(1) R.C.R. (Civil) 851. Reference has also been made to the decision of this Court in “Ostuka Chemicals (India) Private Limited vs. Trans Engineers India Private Limited”, 2026 NCPHHG 5791, to contend that procedural hurdles should not obstruct



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substantive justice and even the bar under Section 8 of the Act would not be a hurdle while exercising constitutional powers under Article 227 of the Constitution. It has also been informed that the SLP filed against the said order stands dismissed.

4. I have considered the aforesaid submissions and perused the paper-book.

5. The plaintiff has filed a suit seeking declaration that the contract *inter se* the parties stood discharged by breach and consequently, sought recovery of the money paid under the contract. The respondent-plaintiff has specifically pleaded in para 12 of the suit (Annexure P-2) that the defendant has not disputed such termination communicated through 'Certified Notice' dated 27.09.2019. It is also pleaded in para 13 that the defendant has implicitly accepted the termination. By way of proposed amendment, the plaintiff wants to elaborate the facts regarding dispatch of various e-mails by the employees of the defendant-petitioner. There is no change in the nature of the suit and even if there is any delay in filing the application for amendment of the plaint, no prejudice would be caused to the defendant with such delay in view of the fact that the plaintiff is seeking the declaration and also seeking recovery. The delay in approaching the Court seeking amendment would primarily affect the respondent-plaintiff himself and the petitioner-defendant can always be compensated with costs. The Commercial Court has allowed the amendment in terms of the settled principles laid down by Hon'ble the Supreme Court in *Life Insurance Corporation's case (supra)*.



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5.1 So far as rigour of Order XI CPC, as made applicable to the commercial suits, is concerned, the proposed amendment cannot be disallowed on technicalities, as has been held by this Court in *Ostuka Chemicals (supra)* that procedural and technical hurdles would not come in the way of the Court while doing substantial justice.

6. The facts of the present case are distinguishable, as such, ratio of the decisions relied upon by learned Senior counsel for the petitioner is not applicable on the distinguished facts of this case.

7. However, since the dispute is commercial in nature and filing of delayed applications should be burdened with heavy costs, as such, the costs awarded by the Commercial Court are on lower side and deserve to be enhanced.

8. Consequently, the present petition has no merits and the same is accordingly dismissed. However, the amendment allowed by the Commercial Court vide the impugned order dated 16.07.2024, shall be subject to payment of Rs.2,00,000/- as costs, which shall be paid by the respondent-plaintiff to the petitioner-defendant.

9. Pending miscellaneous application(s), if any, shall also stand disposed of.

27.04.2026

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[HARPREET KAUR JEEWAN]
JUDGE

Whether speaking / reasoned :
Whether Reportable :

Yes	No
Yes	No