THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE GADI PRAVEEN KUMAR

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CIVIL REVISION PETITION Nos.2677 AND 2572 OF 2025

Between:
M/s. Sri Vishnu Constructions

Petitioner

VERSUS

The State of Telangana and Others

Respondents

ORDER PRONOUNCED ON: 14.11.2025

THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE GADI PRAVEEN KUMAR

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : Yes

2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : Yes

3. Whether Her Ladyship wishes to see the fair copy of the Judgment? : No

MOUSHUMI BHATTACHARYA, J

THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE GADI PRAVEEN KUMAR

CIVIL REVISION PETITION Nos.2677 AND 2572 OF 2025

Mr.Rusheek Reddy K.V., learned counsel appearing for the petitioner.

Mr.Herur Rajesh Kumar, the learned Government Pleader for Arbitration appearing for the respondent No.1.

COMMON ORDER: (*per Hon'ble Justice Moushumi Bhattacharya)*

1. The Civil Revision Petitions arise out of two orders dated 10.06.2025 passed by the Special Judge for Trial and Disposal of Commercial Disputes, Ranga Reddy District ('Commercial Court') in IA.No.224 of 2025 in COS.No.39 of 2021 and I.A.No.263 of 2025 in COS.No.46 of 2021.

2. COS.No.39 of 2021 was filed by the petitioner/plaintiff seeking the relief of declaration and for the recovery of a sum of Rs.5,17,65,337/- along with interest against the respondents/defendants. COS.No.46 of 2021 was also filed by the petitioner seeking the relief of declaration and for the recovery of a sum of Rs.9,07,27,864/- along with interest against the respondents/defendants.

3. I.A.No.224 of 2025 and I.A.No.263 of 2025 were filed by the respondents/defendants in the two Suits i.e., COS.No.39 of 2021 and COS.No.46 of 2021, respectively, seeking leave of the Court to file the documents listed in the IAs and for the Court to receive the same by

condoning the delay. The respondents/defendants in I.A.No.263 of 2025, contended that the said documents could not be filed along with their Written Statement as the said documents had been misplaced and were recently traced during the course of a search. It was submitted by the respondents/defendants in both the I.As. that the said documents could not be marked by the respondents/defendants as they were not available on record with the Court bundle.

4. By the impugned orders, the Commercial Court allowed I.A.No.224 of 2025 and partly allowed I.A.No.263 of 2025 by holding that the documents mentioned in the list therein had been mentioned in the pleadings in the Written Statements filed by the respondents/defendants and the petitioner/plaintiff had not denied the relevance of the same. The Commercial Court granted leave to the respondents/defendants to bring the documents listed in both the I.As, on record, except the letter dated 31.05.2018 mentioned at Sl.No.8 of I.A.No.263 of 2025.

5. Learned counsel appearing for the petitioner/plaintiff submits that the Commercial Court failed to consider the non-compliance of the respondents/defendants with the statutory requirement under Order XI Rule 1(10) of The Code of Civil Procedure, 1908 ('CPC'), as amended by The Commercial Courts Act, 2015 ('the 2015 Act') as the respondents/defendants failed to give any 'reasonable cause' for the delay in filing of the documents. Counsel submits that the Commercial Court could not have granted leave to the defendants to file the documents under the

provisions of the CPC, as amended by the 2015 Act, or relaxed the applicability of the said provisions on the ground of the documents having been mentioned in the Written Statements.

6. Learned counsel appearing for the respondents/defendants submits that the impugned orders should be sustained since all the documents which were sought to be filed in the IAs had been referred to in the Written Statements and there was no denial of the documents by the petitioner/plaintiff. Counsel submits that the Commercial Court had taken a balanced decision by upholding that the strict rigor of law under Order XI Rule 1(10) of the CPC cannot be pressed into service since the Written Statements filed had already made a disclosure of the said documents. Counsel submits that all the documents mentioned in the IAs are crucial to the defence of the Suits as they are required to be considered to deal with the petitioner/plaintiff's claim for recovery of money under various heads in the Suits.

7. We have considered the arguments made by learned counsel appearing for the parties and perused the relevant documents on record. The issue before us is whether the Commercial Court followed the principles of law while permitting the respondents/defendants to bring the listed documents on record at a belated stage. The statutory provision applicable to the facts of the present case is Order XI Rule 1(10) of the CPC, as amended by the 2015 Act. We will deal with the statutory position after placing the factual context which is relevant to the adjudication.

8. The facts arising from COS.No.39 of 2021 and COS.No.46 of 2021 are as follows:

COS.No.39 of 2021:

(i) On 18.03.2020, the petitioner/plaintiff filed OS.No.13 of 2020 for recovery of Rs.5,17,65,337/- including damages before the Principal District Judge at Nalgonda. Thereafter, OS.No.13 of 2020 was transferred to the Family Court-cum-Commercial Court Judge, at Nalgonda and was renumbered as OS.No.3 of 2020.

(ii) On 25.01.2021, the respondent No.4/defendant No.4 filed its Written Statement-cum-Counter Claim in OS.No.3 of 2020. The said Written Statement was adopted by the respondent Nos.1-3/defendant Nos.1-3.

(iii) On 22.03.2021, the petitioner/plaintiff filed its Counter to the Written Statement-cum-Counter Claim of the respondents/defendants.

(iv) On 03.06.2021, OS.No.3 of 2020 was transferred to the Special Judge for Trial and Disposal of Commercial Disputes, Ranga Reddy District, at L.B. Nagar and was renumbered as COS.No.39 of 2021.

(v) On 02.08.2023, the petitioner/plaintiff filed a Memo *vide* USR No.1407 of 2023 stating that no admission and denial statement can be filed as the defendants/respondents did not file any documents.

(vi) On 22.09.2023, the exhibits were marked on behalf of the petitioner/plaintiff.

(vii) On 28.11.2024, the cross-examination of PW.1 was completed.

(viii) On 06.01.2025, the respondents/defendants' right to lead evidence was forfeited.

(ix) Thereafter, on 12.02.2025, the respondents/defendants filed IA.No.103 of 2025 in COS.No.39 of 2021 to reopen the evidence of the respondents/defendants.

(x) On 15.04.2025, the respondents/defendants filed I.A.No.224 of 2025 seeking to bring nine documents on record. The said IA was allowed by the impugned order dated 10.06.2025.

COS.No.46 of 2021:

(i) On 10.07.2021, the petitioner/plaintiff filed the Suit before the Commercial Court for recovery of Rs.9,07,27,864/- and for damages.

(ii) On 27.01.2022, the respondent No.4/defendant No.4 filed its Written Statement. The said Written Statement was adopted by the respondent Nos.1-3/defendant Nos.1-3.

(iii) On 16.03.2022, the petitioner/plaintiff filed its Rejoinder to the Written Statement. The plaintiff also filed a Memo on 02.03.2023 stating that no admission and denial statement can be filed as the defendants/respondents did not file any documents.

(iv) On, 11.07.2023, the issues were framed in the Suit and the exhibits were marked on behalf of the plaintiff on 11.08.2023.

(v) On 05.08.2024, the cross-examination of PW.1 was treated as nil.

(vi) On 01.10.2024, the respondents/defendants' right to lead evidence was forfeited.

(vii) Thereafter, on 13.11.2024, the respondents/defendants filed IA Nos.431 and 432 of 2024 in COS.No.39 of 2021 to reopen the evidence of the petitioner/plaintiff and to recall PW.1.

(viii) On 19.02.2025, the cross-examination of PW.1 was completed.

(ix) On 05.03.2025, the respondents/defendants filed I.A.No.195 of 2025 seeking to reopen the evidence of the respondents/defendants.

(x) On 04.04.2025, the respondents/defendants filed I.A.No.263 of 2025 to bring on record eight documents. The said IA was allowed by the impugned order dated 10.06.2025.

(xi) On 01.08.2025, DW.1 was cross-examined in part.

9. The Court is informed that both the Suits are now posted for cross-examination of DW.1.

10. Hence, from the above undisputed facts, it is evident that the respondents/defendants filed the two IAs for bringing the listed documents on record after more than three years of filing their Written Statements in the two Suits. The reason for filing with such delay as given in the IA.No.263 of 2025 is that the listed documents had been misplaced and were only recently traced during a search. The respondents/defendants also state that the documents are in the nature of Public Documents and are crucial and essential for the proper adjudication of the issues in the Suits on merits and for the protection of Government Property and Public

Money and that no prejudice will be caused to the petitioner/plaintiff if the documents are received.

11. In the impugned orders dated 10.06.2025, the primary reason given by the Commercial Court for allowing the IAs filed by the respondents/defendants is that all the documents which were sought to be received by way of the IAs had been referred to in the pleadings in the Written Statements, except for the letter dated 31.05.2018 mentioned at Sl.No.8 of I.A.No.263 of 2025. The Commercial Court also held that since the petitioner/plaintiff had not disputed or denied the relevance of the listed documents, the rigour of Order XI Rule 1(10) of the CPC can be relaxed for deciding the disputes on merits. The Commercial Court accordingly allowed the two IAs by granting leave to the respondents/defendants to bring the listed documents on record, except the letter dated 31.05.2018 (document at Sl.No.8 in I.A.No.263 of 2025), subject to proof, relevancy and admissibility.

12. It is relevant to place the statutory position under Order XI Rule 1(10) of the CPC, as amended by the 2015 Act. Order XI relates to the 'Disclosure, Discovery and Inspection of Documents in Suits before the Commercial Division of a High Court or a Commercial Court'.

13. Order XI Rule (1)(1)-(5) deals with the obligation of disclosure of documents on the part of the plaintiff i.e., the duty of the plaintiff to 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.

The overarching nature of the mandate is evident from Order XI Rule 1(a) and (b) which encompass not only the documents referred to and relied on by the plaintiff in the plaint but also all other documents pertaining to any matter in question in the proceedings, which are in the power, possession, control or custody of the plaintiff as on the date of filing the plaint, irrespective of whether the same support or contradict the plaintiff's case.

14. The procedural rigour of disclosure is virtually reproduced and mirrored in Order XI Rule 1(7) – (10) with regard to the defendant where a similar obligation is cast on the defendant to 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 (Order XI Rule 1(7)(a) and (b)). The discipline envisaged extends to Order XI Rule 1(8) which contains a direction for specifying in the list of documents filed along with the written statement/counterclaim as to whether the documents in the power, possession, control or custody of the defendant are originals, office copies or photocopies. Further, the defendant is also mandated to indicate in the list, the particulars of such documents including the details of parties to each document being produced by the defendant, mode of execution, issuance or receipt and line of custody of each document.

15. The rigour of Order XI Rule 1 is accentuated in sub-rule (9) which provides that 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, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff, save and except those set out in sub-rule (7)(c)(iii), have been disclosed with the written statement along with copies of such documents annexed to the written statement. Order XI Rule 1(7)(c)(iii) carves out an exception to the requirement of disclosure of all documents along with the written statement. The exception covers documents handed over to a witness merely to refresh his/her memory.

16. The window given to a defendant to bring additional documents on record subsequent to filing of a written statement or counterclaim is contained in Order XI Rule 1(10). The language used by the Legislature is mandatory in the 'negative sense' and is reproduced below:

> *"(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 reasonable cause for non-disclosure along with the written statement or counterclaim."*

17. The above makes it clear that the defendant shall <u>not</u> be permitted to rely on or bring on record, documents which were not disclosed along with the written statement/counterclaim despite the same being in the defendant's power, possession, control or custody. The caveat to this stricture is that the defendant can be permitted a second window subject to obtaining leave of the Court by establishing 'reasonable cause' for non-

disclosure of the documents at the time of filing of the written statement/counterclaim.

18. In essence, Order XI Rule 1(7) - (10) of the CPC, as amended by the 2015 Act, would clarify that a defendant can be permitted to file documents after the filing of the written statement only when the Court is satisfied that the defendant has established 'reasonable cause' for non-disclosure of the documents at the time of filing of the written statement.

19. In the present case, the primary reason given by the Commercial Court is that the defendants' IAs ought to be allowed since the documents were referenced in the Written Statements. The said finding is required to be placed in the context of Order XI Rule 1(7)(a) of the CPC which clarifies the procedural mandate on the defendant by providing that 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 counter-claim if any, including '*the documents referred to and relied on by the defendant in the written statement*' (underlined for emphasis).

20. Therefore, it is clear that the mere reference to or reliance on a document by a defendant in the written statement cannot absolve the defendant of its duty of filing the said document along with the written statement under Order XI Rule 1(7) of the CPC. It hence follows that the Court cannot permit the documents to be subsequently brought on record

only on the ground that the documents have already been referred to in the Written Statement. To repeat, the rigour of Order XI Rule 1(7) of the CPC can only be relaxed where the defendant establishes 'reasonable cause' for non-disclosure of the document/s along with the written statement (Order XI Rule 1(10)). In permitting the defendants to bring the listed documents on record on the ground that the documents had been referred to in the Written Statements is erroneous since the Commercial Court interchanged and in essence, interpolated the necessity of establishing reasonable cause for the second window under Order XI Rule 1(10) with the mandate of the first window under Order XI Rule 1(7)(a).

21. In our view, the Commercial Court should have perceived the requirement of establishing 'reasonable cause' for the non-disclosure of the listed documents, independent of the mandate cast upon the defendant to disclose all documents at the time of filing of the Written Statements including the documents referred to and relied on by the defendants in the Written Statements. The fact that the documents were referred to in the Written Statements cannot be used as a 'reasonable cause' within the stricture of Order XI Rule 1(10) of the CPC.

22. In other words, the defendants had a statutory obligation to disclose all documents referred to by the defendants in their Written Statements at the time of filing of the Written Statements. The fallacy in the reasoning of the Commercial Court would be evident from the fact that the Commercial Court permitted the defendants to use the non-compliance of Order XI Rule

1(7)(a) of the CPC as a basis for availing of the window under Order XI Rule 1(10) of the CPC. Thus, the defendants' violation was transformed to a justification. We are hence of the view that the construction of Order XI Rule 1(10) of the CPC as rendered by the Commercial Court is incompatible with the statutory framework of Order XI Rule 1 of the CPC, as amended by the 2015 Act.

23. Even otherwise, the Commercial Court based its decision on the additional ground of the petitioner/plaintiff not disputing the relevance of the documents. In our view, the aforesaid consideration is completely irrelevant to the limited relaxation available to the respondents/defendants under Order XI Rule 1(10) of the CPC, as amended by the 2015 Act. Further, the only reason given by the respondents/defendants for bringing the said documents on record, after more than three years of filing of the Written Statements, is that the documents had been misplaced and were subsequently traced. This, by no means, satisfies the rigour of Order XI Rule 1(7) of the CPC as amended by the 2015 Act, which underscores the obligation of a defendant to 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. The tightness of the obligation would be reflected from Order XI Rule 1(9) of the CPC which requires that the written statement or counter-claim shall contain a declaration on oath made by the deponent that all documents in the power, possession, control or custody of the defendant except for those

set out in sub-rule (7)(c) of Order XI Rule 1 of the CPC, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff or in the counter-claim, have been disclosed and copies thereof annexed with the written statement or counterclaim and that the defendant does not have any other documents in its power, possession, control or custody.

24. The Commercial Court erred in granting leave to the respondents/defendants for filing the listed documents by accepting their ground *viz.,* the documents having been referred to in the Written Statements and the relevance of the documents not having been denied by the petitioner/plaintiff. The Supreme Court in *Sudhir Kumar Vs. Vinay Kumar G.B.*[1] reiterated the rigour of establishing 'reasonable cause' for non-disclosure of documents along with the plaint, under the transformed regime of the CPC as effectuated by the 2015 Act. Several Courts, including a Single Bench of the Delhi High Court in *Entertainment Network (India) Ltd. Vs. HT Media Limited*[2] found that the reasons given by the defendant therein for bringing additional documents on record at a belated stage, were unsatisfactory. It was further observed that permitting additional documents being filed without reasonable cause at the trial stage would defeat the purpose of instituting proceedings under the 2015 Act which aims for expeditious disposal of Commercial Suits.

[1] (2021) 13 SCC 71
[2] 2022: DHC :3329

25. *ITC Limited v. JP Morgan Mutual Fund India Pvt. Ltd*[3] involved the question as to whether a defendant could merely take the leave of Court for filing of additional documents after settlement of issues under the unamended Order VIII Rule 1-A(3) of the CPC or would instead be subjected to the additional obligation of showing reasonable cause under Order XI Rule 1(10) of the CPC, as amended by the 2015 Act. The issue therein was wholly different from the one in the present matter which is whether the mere reference to documents in the written statement is sufficient to constitute 'reasonable cause' so as to offset the duty of the defendant to disclose the same during the filing of the written statement against the backdrop of Order XI Rule 1(10) of the CPC.

26. The respondents/defendants' contention with respect to the relevance of the documents being a credible defence is irrelevant to the scheme of Order XI Rule 1 of the CPC, as amended by the 2015 Act. The statutory framework of Order XI Rule 1 of the CPC calls for both diligence as well as vigilance on the part of the defendant (as well as the plaintiff) to file all documents pertaining to the Suit along with the written statement (or plaint). The words 'power, possession, control or custody' in Order XI Rule 1(7) declares a broad and all-pervasive intention to cover <u>all</u> documents which are under the dominion of the defendant which are to be filed with the written statement. The obligation on the part of the defendant in Order XI Rule 1(9) of the CPC to declare on oath that all such documents have

[3] (2020) 3 Cal LT 557

been disclosed and copies thereof been annexed to the Written Statement, fortifies the stricture of Order XI Rule 1 to ensure that the speed of a Commercial Suit is not retarded by an indolent defendant (or a plaintiff) who seeks shelter under flimsy explanations for belated filings.

27. The defendants could have taken refuge under Order XI Rule 1(10) of the CPC, as amended by the 2015 Act, by establishing a real and substantial cause for the non-disclosure of the documents along with the Written Statements. However, the defendants failed to do this. The mere excuse that the documents could only be traced at a later point of time does not satisfy the benchmark of 'reasonable cause', particularly within the discipline of Order XI Rule 1(10) of the CPC.

28. The above reasons point to the fact that the Commercial Court erred in allowing the defendants' IAs by accepting the insufficient reasons given for the relaxation of the stricture of Order XI Rule 1(10) of the CPC. The reasons are discordant to the scheme of Order XI Rule 1(10) of the CPC and the Commercial Court erred in accepting the justification for bringing the documents on record at a belated stage. We hence deem it fit to set aside the impugned orders dated 10.06.2025.

29. CRP.Nos.2677 and 2572 of 2025 are accordingly allowed in terms of the above. All connected applications are disposed of.

There shall be no order as to costs.

MOUSHUMI BHATTACHARYA, J

GADI PRAVEEN KUMAR, J

14th November, 2025.

BMS

THE HON'BLE JUSTICE MOUSHUMI BHATTACHARYA
AND
THE HON'BLE JUSTICE GADI PRAVEEN KUMAR

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