



CR-5411-2025 (O&M)

Sr.No.117

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

**CR-5411-2025 (O&M)
Reserved on :29.08.2025
Pronounced on:09.09.2025**

M/s Syndicate Carrier and another

....Petitioners

Versus

M/s Jamnagar Filling Station and another

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Parambir Singh, Advocate and
Mr. Kanwal Goyal, Advocate
for the petitioners.

Mr. Sumit Sangwan, Advocate and
Mr. Vikrant Rana, Advocate
for the respondent No.1.

PANKAJ JAIN, J.

Present revision filed under Article 227 of the Constitution of India is directed against Order dated 16.04.2025 passed by Commercial Court, Gurugram dismissing the review application filed by the petitioners/defendants upholding order dated 20.12.2024, whereby application filed by petitioner under Order XI Rule 1(10) read with Order VII Rule 14 read with Section 151 CPC seeking permission to produce additional documents stands dismissed.

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2. Petitioners/defendants are facing suit for recovery of Rs.50,56,859.68/- filed at the behest of the plaintiff. Defendants filed the written statement on 04.10.2022. Defendants in the preliminary objections claimed that the defendants are maintaining proper books of accounts being audited by qualified Chartered Accountant. As per the books of accounts, the total outstanding amount payable to the respondent No.1/plaintiff as on 31.03.2020 was Rs.39 lakhs. The same was paid by the defendants within the period commencing from 14.07.2020 till 20.01.2021. Plaintiff issued receipt *qua* amount of Rs.38,50,000/- but deliberately withheld the receipt *qua* remaining Rs.50,000/-.

3. As per law, defendants were required to furnish list of documents referred to and relied upon by them in the written statement and the documents in their power, possession, control or custody relating to any matter in question in the proceedings. In the list of documents furnished ledger only for the year 2018-2019 has been disclosed. It is at the later stage on 19.10.2024, i.e. during cross-examination that the petitioner filed present application under Order XI Rule 1(10) read with Order VII Rule 14 read with Section 151 CPC seeking permission to place on record audited financial statement for the year ending on 31.03.2022. The application was contested by plaintiff.

4. The Trial Court vide impugned order dated 20.12.2024 dismissed the application filed by petitioners/defendants holding that the petitioners failed to show any reasonable cause for non-disclosure of the documents at the time of filing of the written statement.

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5. Defendant filed application under Section 114 of the Code of Civil Procedure seeking review of order dated 20.12.2024 before the same Court. The same stands rejected vide order dated 16.04.2025. In the present revision petition, the Petitioners have assailed both the orders, i.e. order dated 20.12.2024 and the order dated 16.04.2025 dismissing the application seeking review of order dated 20.12.2024.

6. Counsel for the petitioners has assailed the findings recorded by the Trial Court submitting that since the audit for the financial statements for the year ending on 31.03.2022 was concluded only on 31.12.2023, hence the same could only be brought to the notice of the Court and be disclosed thereafter. He submits that since the documents were not in existence at the time of filing of the written statement on 04.10.2022, the same could not have been disclosed. The Court, however, failed to appreciate the same and erred in rejecting the application filed by petitioners. He relies upon the ratio of law laid down by Supreme Court in the case of ***Sudhir Kumar @ S. Baliyan vs Vinay Kumar G.B., (2021) 13 SCC 71***, wherein the Supreme Court held that rigour of establishing the reasonable cause in non-disclosure along with pleadings shall not arise where the additional documents sought to be produced/relied upon are discovered subsequent to the filing of the pleadings.

7. *Per contra*, counsel for the respondent No.1/plaintiff submits that even if the cause pleaded by petitioners is taken on its face value that the audit *qua* the financial statement for the year ending on 31.03.2022 was concluded only in December, 2023, there is no explanation offered by the

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petitioners for remaining silent and not disclosing the document till December, 2024, when the present application was moved. Mr. Sangwan submits that it is highly improbable that financial statements *qua* year ending on 31.03.2022 were not in the knowledge and possession of the petitioners/defendants at the time of filing written statement in October, 2022. Mr. Sangwan also relies upon *Sudhir Kumar's case (supra)* to submit that only those documents can be allowed to be produced exercising power under Order XI Rule 1 (10) CPC, which were not in possession of the defendant at the time of filing of the pleadings. Further reliance is being placed upon *M/s. V. E. Commercial Vehicles Limited versus Bangalore Metropolitan Transport Corporation, 2011 SCC OnLine CCI 57* to contend that filing of additional documents after conclusion of evidence amounts to filling of lacuna and the same is impermissible. Mr. Sangwan has further relied upon ratio of law laid down by this Court in case of *M/s Bestech India Pvt. Ltd. Vs. Fakira Singh (Deceased) Through LRs and another, passed in CR-1501-2025, decided on 12.03.2025*, wherein this Court held that provisions of law are enacted with certain aims and objectives and they cannot be whittled down. Further reliance is being placed upon the case of *M3M India Pvt. Ltd. Vs. MGF Developments Ltd. and others, passed in CR No.2227 of 2025, pronounced on 26.05.2025*, wherein this Court held that the documents sought to be introduced by the party, which were not in his possession and knowledge at the time of filing of pleadings, cannot be allowed to be produced at later stage, without offering explanation that constitutes reasonable cause.



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8. I have heard counsel for the parties and have carefully gone through records of the case.

9. *Lis* pertains to commercial dispute. The Commercial Courts Act, 2015 (*hereinafter referred to as '2015 Act'*) was enacted with a defined object to provide early resolution to the commercial disputes for creating a positive image to the investor world about the independent and responsive Indian legal system. Chapter VI of 2015 Act deals with amendments to the Code of Civil Procedure in its application to commercial disputes. By Schedule appended to 2015 Act, Order XI in the CPC for ordinary suits stands substituted for commercial disputes. Order XI Rule 1 Sub-Rules (7) to (12), deal with disclosure of documents by defendant. The same read as under:-

“Order XI - 1. Disclosure and discovery of documents.—

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(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—

(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,

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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



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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.

(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.

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10. Admittedly, the financial statements that petitioners/defendants want to place reliance upon, were not disclosed at the time of filing written statement. The issue that calls for consideration before this Court is:

(i) Whether the explanation projected by defendants constitutes reasonable cause or not?

11. While dealing with similar clause contained in Order XI Rule 1(5) CPC governing the rights of plaintiff, the Supreme Court in ***Sudhir Kumar’s case (supra)*** observed as under:-

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9.5. Order 11 Rule 1(5) further provides that 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

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cause for non-disclosure along with the plaintiff. Therefore on combined reading of Order 11 Rule 1(4) read with Order 11 Rule 1(5), it emerges that (i) in case of urgent filings the plaintiff may seek leave to rely on additional documents; (ii) within thirty days of filing of the suit; (iii) making out a reasonable cause for non-disclosure along with plaintiff.

9.6. Therefore a further thirty days' time is provided to the plaintiff to place on record or file such additional documents in court and a declaration on oath is required to be filed by the plaintiff as was required as per Order 11 Rule 1(3) if for any reasonable cause for non-disclosure along with the plaintiff, the documents, which were in the plaintiff's power, possession, control or custody and not disclosed along with plaintiff. Therefore the plaintiff has to satisfy and establish a reasonable cause for non-disclosure along with plaintiff. However, at the same time, the requirement of establishing the reasonable cause for non-disclosure of the documents along with the plaintiff shall not be applicable if it is averred and it is the case of the plaintiff that those documents have been found subsequently and in fact were not in the plaintiff's power, possession, control or custody at the time when the plaintiff was filed. Therefore Order 11 Rule 1(4) and Order 11 Rule 1(5) applicable to the commercial suit shall be applicable only with respect to the documents which were in plaintiff's power, possession, control or custody and not disclosed along with plaintiff. Therefore, the rigour of establishing the reasonable cause in non-disclosure along with plaintiff may not arise in the case where the additional documents sought to be produced/relied upon are discovered subsequent to the filing of the plaintiff.

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12. Applying the aforesaid parameter to the present case, this Court finds that the petitioners/defendants can not deny that the financial statements for the period ending on 31.03.2022 was in his possession at the time of filing written statement in October, 2022. The explanation put forward is that the audited financial statements were not in possession of petitioners/defendants as the audit concluded only in December, 2023. The present application was moved in December, 2024. At the first instance, defendant was under duty to disclose financial statements for the year ending on 31.03.2022 in his written statement and should have sought leave to produce the same after completion of audit. However, in case the explanation given by defendant is taken on its face value, the same explains non-disclosure till December, 2023 only. Order XI Rule 1 (12) CPC casts continuous obligation on the parties to disclose documents which have come to their notice till disposal of the suit. There is nothing on record that proves lapse from December, 2023 till December, 2024 when the present application was moved by the defendants. Petitioner cannot deny possession of account statement on the date of filing of written statement, even though the same was under audit till December 2023.

13. In view thereof, this Court finds that defendants having failed to disclose the financial statements sought to be produced by way of present application at the time of filing of the written statement and even after audited in December, 2023. No fault can be found with the impugned orders passed by the Trial Court.



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14. Finding no merits in the present revision, same is ordered to be *dismissed*.
15. Pending application(s), if any, shall also stand disposed off.

**(PANKAJ JAIN)
JUDGE**

September 09, 2025
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Whether speaking/reasoned:	Yes
Whether reportable:	Yes