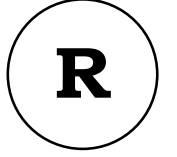


Reserved on : 04.06.2025
Pronounced on : 10.06.2025



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.10679 OF 2025 (GM - CPC)

BETWEEN:

M/S. JSM CORPORATION PRIVATE LIMITED
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT
3RD FLOOR, TODI BUILDING
MATHURDAS MILL COMPOUND
LOWER PAREL WEST, MUMBAI - 400 013

ALSO, AT:
SHIRO LOUNGE BAR
UNIT NO.222, 3RD FLOOR, UB CITY
NO.24, VITTAL MALLYA ROAD
BENGALURU - 560 001.

ALSO HAVING OFFICE AT
EMBASSY POINT, 1ST FLOOR, 150
INFANTRY ROAD, BENGALURU - 560 001

REPRESENTED BY ITS
AUTHORISED REPRESENTATIVE / DIRECTOR
MR. SANJAY MAHTANI

(BY SRI AJESH KUMAR S., ADVOCATE)

... PETITIONER

AND:

- 1 . M/S. BRUNTON DEVELOPERS
A PARTNERSHIP FIRM
HAVING ITS OFFICE AT:
THE FALCON HOUSE
NO.1, MAIN GUARD CROSS
BENGALURU - 560 001
REPRESENTED BY ITS PARTNER
MR. T.B.VENKATESH.

- 2 . M/S. PRESTIGE CUISINE
A REGISTERED PARTNERSHIP FIRM
HAVING ITS OFFICE AT:
UNIT NO.207, COPPER ARCH
NO.83, INFANTRY ROAD
BENGALURU - 560 001
REPRESENTED BY ITS PARTNER
MR. T.B.VENKATESH.

... RESPONDENTS

(BY SRI C.K.NANDAKUMAR, SENIOR ADVOCATE FOR
SRI RAGHURAM CADAMBI, ADVOCATE FOR C/RESPONDENTS)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DTD 05.02.2025 PASSED ON I.A.NO.3 IN COM. OS NO. 835/2023 BY THE COURT OF LXXXII ADDL. CITY CIVIL AND SESSIONS JUDGE AT BENGALURU (CCH-83) AT ANNEX-A AND ETC.,

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 04.06.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner/defendant in Commercial Original Suit No.835 of 2023 is at the doors of this Court calling in question an order dated 05-02-2025 passed by the LXXXII Additional City Civil & Sessions Judge, Bengaluru allowing I.A.No.III filed by the plaintiff seeking to produce documents under Order XI Rule 1(5) of the CPC.

2. Heard Sri Ajesh Kumar S, learned counsel appearing for the petitioner and Sri C.K. Nandakumar, learned senior counsel appearing for the respondents.

3. Facts, in brief, germane are as follows:-

The petitioner is the defendant and the respondents are plaintiffs 1 and 2. The plaintiffs institute a suit in Commercial O.S.No.835 of 2023 for eviction and delivery of vacant possession of the suit schedule property. The issue in the *lis* does not pertain to merit of the matter before the concerned Court. The defendant files its written statement on 06-11-2023 denying all the plaint

averments without any counter claim. On 18-07-2024 issues are framed by the concerned Court. On 02-08-2024 the plaintiffs lead evidence of PW-1 and on 15-10-2024, PW-1 is fully cross-examined. At that stage, the plaintiffs file I.A.No.III invoking Order XI Rule 1 of the CPC seeking leave of the concerned Court to produce four documents. The concerned Court, by its order dated 05-02-2025, permits production of documents by allowing the application. The petitioner/defendant is before this Court challenging the said order, on the score that the documents could not have been permitted to be produced at that stage of the proceedings.

4. The learned counsel appearing for the petitioner Sri Ajesh Kumar S would vehemently contend that the plaintiffs are trying to set up a new case and cover the shortcoming in the evidence led thus far. He would contend that the concerned Court has erroneously held that the documents are produced in order to counter the assertions made by the petitioner/defendant in the written statement and would submit that, that cannot be the scope of Order XI Rule 1 of CPC. The order so passed allowing the

application runs counter to the spirit of Commercial Courts Act, as it clearly bars production of documents at a later stage. He would seek that the petition be allowed and the order be set aside.

5. Per contra, the learned senior counsel Sri C.K.Nandakumar appearing for the respondents/plaintiffs would vehemently refute the submissions contending that Order XI Rule 1(c)(ii) of the CPC permits such an exercise made by the plaintiffs. It is only to counter the defence put up by the defendant, the documents are sought to be marked. What are the documents that are marked and their veracity could be tested only in the evidence. He would contend that there is no perversity in the order passed by the concerned Court, for this Court to interfere in its jurisdiction under Article 227 of the Constitution of India.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

7. The afore-narrated facts, dates and link in the chain of events are all a matter of record. They would not require any reiteration. The issue in the *lis* lies in a narrow compass with regard to tenability of the order passed by the concerned Court. The dispute between the two leads the plaintiffs to file a commercial suit for eviction of the tenant, the petitioner. After cross-examination of PW-1, the plaintiffs prefer an application under Order XI Rule 1 of the CPC. Order XI Rule 1 of the CPC reads as follows:

"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 plaintiffs 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 setup by the defendant subsequent to the filing of the plaint, or**
 - (iii) handed over to a witness merely to refresh his memory."

(Emphasis supplied)

The statutory provision is couched in permissive and enabling terms and mandates that the plaintiff shall file a list of documents in its power, possession, control and custody along with the plaint, but renders certain flexibility, it thus carves out exception to the general mandate of early disclosure. Sub-clause (c) directs that nothing in this Rule shall apply to the documents produced by the plaintiffs and relevant only for cross-examination of defendant's witnesses in answer to any case set up by the defendant subsequent to filing of the plaint. The plaintiffs, in the case at hand, invoke Order XI Rule 1(c)(ii) to prefer the application. It is the case of the plaintiffs that in the written statement and during the cross-examination certain factors are brought out by the defendant with regard to tenancy or communications regarding tenancy. It, therefore, becomes necessary to file the application seeking production of documents. The application comes to be allowed by the following reasoning:

"....

REASONS

7. **Point No. 1:** - Perused the records this application is filed at the stage of further evidence of plaintiff. The plaintiff intended to produce the additional documents i.e., statement of account of the 1st plaintiff and 2nd plaintiff, Email

correspondences between the plaintiff and defendant showing the monthly net sales of the restaurant run by the defendant and the details of the payments made by the defendants to the plaintiffs and partnership deed of the plaintiffs. The documents that are sought to be produced by the plaintiffs are bank statements which date back to 2016. Since they are old documents, the plaintiffs couldn't trace them immediately and file with the plaint and further the plaintiffs are seeking to produce the statement of accounts showing that the rents paid by the defendant from 2016 till the defaults began in 2018 and email correspondences, which are crucial to affirm the rent understanding between the plaintiffs and defendant and further taken a contention that, in their written statement raised certain claims and defenses which necessitate the production of the documents accompanied with this application to substantiate the plaintiffs case and to counter the defendant's allegation. Further one of the documents that is sought to be produced is in response to a question that was posed by the Defendants counsel during cross-examination of PW.1. These documents were in the custody of his accountant Mr. Sunil Swamy.

8. On the other hand the defendant contention that, the email correspondence and bank statement are nor supported by a certificate under Section 63 of the Bharatiya Sakshya Adhinyam 2023. Non production of certificate at the stage is not a ground to reject the application. The certificate is compulsory for marking of the documents. At this stage, the question is whether the additional document produced by the plaintiff cannot be allowed, whether it is helpful for adjudication of this case. Of course these documents are produced at belated stage. But these documents are produced in order to counter assertions made by the Defendant in the written statement.

9. Order 11 Rule 1 clause c (ii) reads as under:

"In answer to any case set up by the defendant subsequently to filing of the plaint."

10. The plaintiff intended to produce the photocopy of the acknowledgment of registration of firm certificate and Deed of Partnership and reconstitution. The plaintiff

has not explained why he has not produced the original deed of reconstitution partnership deed. However, at this stage we cannot consider admissibility of document in evidence. The question before this court as above stated whether the production of documents can be allowed or not.

11. It is an admitted fact that the plaintiff has not stated regarding these documents in plaint averments. But he has clearly stated that these documents are required to answer the case setup by the defendant. The provision 11 Rule 1 clause c (ii) provides that, the plaintiff can produce the document to answer the case setup by the plaintiff. Under these circumstances, in order to avoid the multiplicity of proceedings, it is just and proper to allow the application in the ends of justice. However, inconvenience caused to the defendant is to be compensated by imposing cost. Hence, I answer this point in the Affirmative.

12. Point No. 2: - Accordingly, I pass the following order.

ORDER

IA No. III filed by the Plaintiff Under Order XI Rule 1 (5) of CPC is allowed with cost of Rs. 2,500/-."

(Emphasis added)

The concerned Court records, by a reasoned order, the tenor of Order XI Rule 1 Clause (c)(ii) and holds that the statute itself permits documents to be produced. The concerned Court further holds that it is not the stage to consider what kind of document that is produced, but it is only the production of document that is to be looked into. In the light of the statute permitting such production,

whether the order of the concerned Court would require interference is what is necessary to be noticed.

8. The learned counsel for the petitioner has placed heavy reliance upon two judgments, one of which is that of the Apex Court and the other is of Bombay High Court. The Apex Court interpreting Order XI Rule 1 CPC, in a judgment rendered in **SUDHIR KUMAR v. VINAY KUMAR G.B.**¹, has held as follows:

“....

9.3. It is true that Order 11 Rule 1CPC as applicable to the commercial suits brought about a radical change and it mandates the plaintiff to file a list of all documents, photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the plaint and a procedure provided under Order 11 Rule 1 is required to be followed by the plaintiff and the defendant, when the suit is the commercial suit. Order 11 Rule 1, as applicable to commercial suits reads as under:

“ORDER 11

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;

¹ (2021) 13 SCC 71

(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.

(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—

(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 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."

Order 11 Rule 1(3) provides that 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 proceeding initiated by him have been disclosed and copies thereof annexed with the plaint, and that the plaintiff does not have other documents in its power,

possession, control or custody. As per the Explanation under Order 11 Rule 1(3) a declaration on oath under this sub-rule shall be contained in the Statement of Truth as set out in the Appendix. Appendix I with respect to the Statement of Truth reads as under:

"APPENDIX I
STATEMENT OF TRUTH

(Under First Schedule, Order 6 Rule 15-A and
Order 11 Rule 3)

I ... the deponent do hereby solemnly affirm and declare as under:

1. I am the party in the above suit and competent to swear this affidavit.

2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.

3. I say that the statements made in ... paragraphs are true to my knowledge and statements made in ... paragraphs are based on information received which I believe to be correct and statements made in ... paragraphs are based on legal advice.

4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.

5. I say that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.

6. I say that the abovementioned pleading comprises of a total of ... pages, each of which has been duly signed by me.

7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.

8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law for the time being in force.

Place:

Date:

DEPONENT

VERIFICATION

I, do hereby declare that the statements made above are true to my knowledge. Verified at [place] on this [date].

DEPONENT."

Therefore, the declaration on oath shall be part of the plaint. The plaintiff has to declare on oath that all documents in its/his power, possession, control or custody, pertaining to the facts and circumstances of the proceedings, initiated by him/it have been disclosed and the copies thereof annexed with the plaint, and that he does not have any other documents in his power, possession, control or custody. Therefore, as such it is mandated by Order 11 Rule 1 for the plaintiff to disclose and produce all the documents in his power, possession, control or custody, pertaining to the facts and circumstances of the proceedings.

9.4. However, the additional documents can be permitted to be bought on record with the leave of the court as provided in Order 11 Rule 1(4). Order 11 Rule 1(4) provides that in case of urgent filings, the plaintiff may seek leave to rely on additional documents as part of the above declaration on oath [as provided under Order 11 Rule 1(3)] 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.

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 cause for non-disclosure along with the plaint. 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 plaint.

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 plaint, the documents, which were in the plaintiff's power, possession, control or custody and not disclosed along with plaint. Therefore, the plaintiff has to satisfy and establish a reasonable cause for non-disclosure along with plaint. However, at the same time, the requirement of establishing the reasonable cause for non-disclosure of the documents along with the plaint 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 plaint 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 plaint. Therefore, the rigour of establishing the reasonable cause in non-disclosure along with plaint may not arise in the case where the additional documents sought to be produced/relied upon are discovered subsequent to the filing of the plaint."

(Emphasis supplied)

The learned counsel for the petitioner would seek to contend that the Apex Court has clearly barred production of documents at a later stage. The learned counsel perhaps has ignored to read between the lines in paragraphs between 9.5 and 9.6. The Apex Court itself holds in paragraph 9.6 that the requirement of establishing reasonable cause for non-disclosure of the documents along with the plaint may not arise in a case where additional documents sought to be produced and relied upon have been discovered subsequent to filing of the plaint. **Therefore, it is not an unambiguous embargo to produce any document which was not produced along with the plaint.** The exceptional circumstance is carved out in clause (c) of Order XI Rule 1 and one of the clauses is in answer to the case set up by the defendant. Therefore, the said judgment would not become applicable to the facts of the case nor help the petitioner in any way. Same goes with the judgment of the High Court of Bombay relied on by the learned counsel for the petitioner in the case of **KHANNA RAYON INDUSTRIES PRIVATE LIMITED v. SWASTIK ASSOCIATES** reported in **2023 SCC OnLine Bom.1372.**

9. It becomes apposite to refer to a judgment rendered by another Bench of the High Court of Bombay, answering an identical claim in its judgment rendered in the case of **EDELWEISS SPECIAL OPPORTUNITIES FUND v. FUTURE CORPORATE RESOURCES PRIVATE LIMITED**². In the said judgment the High Court of Bombay holds as follows:

"... .."

16. Order XI Rule 1 of the CPC, quoted hereinabove, mandates that the plaintiff shall file list of all documents and photocopies of all documents in its power, possession, control or custody along with the plaint, irrespective of whether the same are in support of or adverse to the case of the plaintiffs. The statement of truth, being a declaration on oath, under Order XI Rule 1(3) of the CPC, also assumes significance. The statement of truth being a declaration on oath is specified in the appendix to the Commercial Courts Act, 2015. It is an admitted position that the plaintiffs in the present case indeed filed such statement of truth along with the plaint, thereby declaring that they had disclosed all documents that were in their power, possession, control and custody, pertaining to the facts and circumstances of the proceedings initiated. Order XI Rule 1(4) of the CPC, makes an exception in urgent cases where the plaintiff is permitted to file additional documents in Court within 30 days of filing of the suit, while, Order XI Rule 1(5) of the CPC refers to power of the Court to grant leave to file such documents that were in the power, possession, control and custody of the plaintiffs at the time of the filing of the suit, which could not be filed at the time of filing the suit, only upon establishing reasonable cause for non-disclosure of such documents along with the plaint. Apart from this, Order XI Rule 1(1)(c) of CPC carves out an exception in three situations where the Rule itself would not apply. In the facts and circumstances of the present

² Interim Application No.2742 of 2023 in Commercial Suit No.164 of 2022 decided on 11-08-2023

case, the plaintiffs are invoking one such situation, under Order XI Rule 1(1)(c)(ii) of the CPC, which stipulates that nothing in the said Rule will apply to the documents produced by the plaintiffs and relevant only to answer any case set up by the defendant subsequent to filing of the plaint.

17. The defendant has taken a stand in this case that the aforesaid exception carved out under Order XI Rule 1(1)(c) of the CPC, as applicable to commercial suits, can be invoked only at the stage of trial and not at any interlocutory stage. But, this Court is not in agreement with the defendant on that count, for the reason that there is substance in the contention raised on behalf of the plaintiffs that Order XI Rule 1(1)(c)(ii) of the CPC, applicable to commercial suits, does not use the expression 'defence' and uses the words 'any case set up by the defendant' subsequent to filing of the plaint. The defendant can certainly set up its case at the interlocutory stage while resisting the interim / ad-interim reliefs. In a rare case, the Court may proceed to even record evidence for deciding the interlocutory matter, in which case, Order XI Rule 1(1)(c)(i) and (iii) of the CPC could also be invoked to claim that the Rule would not apply to documents produced by the plaintiffs after filing of the plaint. To that extent, plaintiffs are justified in claiming that they could invoke Order XI Rule 1(1)(c)(ii) of the CPC, to justify production of documents along with the present application for amendment.

...

...

...

20. The plaintiffs have taken a very clear stand in respect of Order XI Rule 1(5) of the CPC and they have not made any serious attempt to establish reasonable cause for non-disclosure of the said documents with the plaint. Specific reliance is placed on Order XI Rule 1(1)(c)(ii) of the CPC, as applicable to commercial suits, by claiming that nothing in the entire Rule itself would apply to the said documents now sought to be placed on record on behalf of the plaintiffs, as the said documents are required to be placed on record to answer the case set up by the defendant subsequent to filing of the plaint."

(Emphasis supplied)

Though the Court was answering an application under Order VI Rule 17 of the CPC, the observations as afore-quoted would become squarely applicable to the facts obtaining in the case at hand. I am in respectful agreement with what is held by the learned single Judge of the High Court of Bombay. **In that light, I deem it appropriate to hold that Order XI Rule 1(c)(ii) CPC clearly permits production of documents by the plaintiffs in answer to the case set up by the defendant, which ostensibly will be after filing of the plaint.**

10. Thus, the impugned order far from being perverse or arbitrary, is found on sound legal reasoning of the concerned Court in allowing the application filed by the plaintiffs under Order XI Rule 1 of the CPC.

Finding no merit in the petition, the petition stands ***rejected***.

**SD/-
(M.NAGAPRASANNA)
JUDGE**

Bkp/CT:SS