

**HIGH COURT OF ANDHRA PRADESH**

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**CIVIL REVISION PETITION No. 578 of 2026**

Between:

M/s. GGR Housing India Private Limited,  
Visakhapatnam, Rep. by its Authorized  
Signatory Mrs.G.Sunitha and 2 others

.....PETITIONERS

AND

Navaratna Estates, Visakhapatnam  
Rep. by its Managing Partner Mr.Suresh Kumar  
Jain and another

.....RESPONDENTS

**DATE OF JUDGMENT RESERVED** : **23.04.2026**  
**DATE OF JUDGMENT PRONOUNCED** : **07.05.2026**  
**DATE OF JUDGMENT UPLOADED** : **07.05.2026**

SUBMITTED FOR APPROVAL:

**THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**  
**&**  
**THE HON'BLE SRI JUSTICE BALAJI MEDAMALLI**

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
3. Whether Your Lordships wish to see the fair copy of the Judgment? Yes/No

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**RAVI NATH TILHARI, J**

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**BALAJI MEDAMALLI, J**

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! Counsel for the Petitioners : Sri S. V. S. S. Siva Ram

Counsel for the Respondents : Sri N. Subbarao, Senior Advocate  
Assisted by Sri V. Dushyanth Reddy

< Gist :

> Head Note:

? Cases Referred:

1. 2023 SCC OnLine SC 1244
2. 1994 SCC (L&S) 31
3. 1983 SCC OnLine Bom 163
4. 2018 SCC OnLine Del 10212
5. 2024 SCC OnLine Gau 852
6. 2022 SCC OnLine SC 872
7. 2017 SCC OnLine SC 1251
8. (2005) 8 SCC 760
9. AIR 1964 SC 72
10. (1974) 4 SCC 3
11. (2007) 9 SCC 768
12. (2023) 20 SCC 747

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&**

**THE HON'BLE SRI JUSTICE BALAJI MEDAMALLI**

**CIVIL REVISION PETITION No. 578 of 2026**

**JUDGMENT:** (per Hon'ble Sri Justice Ravi Nath Tilhari)

Heard Sri S. V. S. S. Siva Ram, learned counsel for the petitioners and Sri N. Subbarao, learned Senior Advocate, assisted by Sri V. Dushyanth Reddy, learned counsel for the respondents.

2. The present civil revision petition under Article 227 of the Constitution of India has been filed by M/s.GGR Housing India Private Limited, (Petitioner No.1, a Company registered under the Companies Act, 1956), M/s. GGR Infra Developers Private Limited, (Petitioner No.2, a Company registered under the Companies Act, 2013) and GGR Infra Priavate Limited (Petitioner No.3, a Company registered under the Companies Act, 2013), challenging the Order dated 04.02.2026 passed in I.A.No.271 of 2025 in C.O.S.No.11 of 2022 (in short 'COS') on the file of the learned Court of the Special Judge for Trial and Disposal of Commercial Disputes, Visakhapatnam (in short 'the Special Judge'). The COS was filed by the petitioners being plaintiffs against the defendants No.1 & 2, the present respondents. I.A.No.271 of 2025 was filed by the petitioners under Order XI Rule 1 (5) of the Code of Civil Procedure (in short 'CPC'), as amended by the Commercial Courts Act, 2015 (in short 'Act 2015'), seeking leave to receive the documents as mentioned in the list annexed to the I.A.

## **I. Facts:**

3. The petitioners had filed COS for specific performance of an oral agreement dated 28.09.2015 to direct the 1<sup>st</sup> defendant to execute the sale deed in favour of the plaintiffs in respect of plaint-A schedule property and also to direct the 2<sup>nd</sup> defendant to execute the sale deed in favour of the plaintiffs in respect of plaint-B schedule property. They also claimed costs of the suit.

4. In COS, I.A.No.347 of 2024 was filed for amendment of the pleadings which was allowed and incorporating the proposed amendment, the amended plaint was filed on 04.08.2025, to which, additional written statement was filed by the defendants on 25.08.2025.

5. In the prayer clause after amendment reads as under:

“VII. PRAYER: (amended as per orders in IA 347/2024 dt.21-07-2025)

The plaintiffs therefore pray the Honorable Court, in the interest of justice, be pleased to pass a Decree and Judgment in favor of the plaintiffs’ and against the defendants’

- a) For granting specific performance of the oral agreement dt:28-09-2025 with regard to the plaint schedule-A property by directing the 1<sup>st</sup> defendant to execute and register a regular sale deed/s in respect of the plaint schedule-A property in favour of the plaintiffs or its nominees within the time frame fixed by the Honourable Court failing which the Honourable Court may be pleased to execute the same in favour of the plaintiffs or its nominees after declaring the termination notice dated 06-06-2022 issued on behalf of the defendants as null, void, illegal and not binding on the plaintiffs.
- b) For granting specific performance of the oral agreement dt:29-09-2015 with regard to the plaint schedule-B property by directing the 2<sup>nd</sup> defendant to execute and register a regular sale deed/s in respect of the plaint schedule-B property in favour of the plaintiffs or its nominees within the time frame fixed by the Honourable Court failing which the Honourable Court may be pleased to execute the same in favour of the plaintiffs or its nominees after declaring

the termination notice dated 06—6-2022 issued on behalf of the defendants as null, void, illegal and not binding on the plaintiff.

- c) Or in the alternative if for any reason the Hon'ble Court comes to conclusion that specific performance is not possible to be granted as prayed in para (a) and (b), with respect to the suit schedule "A" and "B" properties, the Hon'ble Court be pleased to direct the defendants to refund a sum of Rs.36,22,05,315.00 (Rupees Thirty-Six Crore Twenty-Two Lakhs Five Thousand Three Hundred and Fifteen only) along with subsequent interest at 24% per annum from the date of filing of suit for suit schedule "A" and "B" property.
- d) For grant of such other and further relief or reliefs as the Honourable Court deems fit and proper in the circumstances of the case.
- e) For costs of the suit."

6. Learned counsel for the petitioners submitted that by the amendment prayer (c) was added.

7. With respect to I.A.No.271 of 2025 seeking leave to receive the list of documents 133 in number. The petitioners' case was that those documents are certified copies being filed in support of the amended pleadings. The documents included the Gram Panchayat resolutions, Official Challans confirming payment of development and conversion charges to the Gram Panchayat, Modavalasa and to the Visakhapatnam Metropolitan Region Development Authority (in short 'VMRDA') and those documents were obtained recently. It was also the petitioners' case that they developed a layout in the plaint schedule property and the Google images will help the petitioners in establishing the case of being in possession and developing the property. It was further their case that the certified copies of conveyance deed sought to be

filed which were executed by the defendants in favour of the plaintiffs pursuant to the oral agreement dated 28.09.2015 would help classifying the various aspects and the documents sought to be produced will show the payment of sale consideration and also conveyance of title in respect of the land adjacent to the plaint schedule property. Those were public documents and no prejudice would be caused to the defendants in receiving the same by the Court.

8. The 1<sup>st</sup> respondent filed counter in the said I.A.No.271 of 2025, which was adopted by the 2<sup>nd</sup> respondent. Their case while denying the petitioners' case in the I.A. was that the documents sought to be produced did not have any nexus with the amended plaint pleadings. The documents 1 to 21 sought to be produced were related to a Non-Agriculture Land Assessment (in short 'NALA') conversion charges and they were available to the plaintiffs/petitioners much prior to institution of the suit. The petitioners had to disclose and file those documents with the original plaint and could not be permitted to file at a later stage in view of the strict provisions of the Commercial Courts Act, 2015. With respect to the documents No.24 to 133, the respondents' case was that those documents were the sale deeds already executed by the 1<sup>st</sup> defendant in favour of the 1<sup>st</sup> petitioner and those were also prior to filing of the suit. The pleadings in the plaint clearly mentioned a specific extent already sold to the plaintiffs and hence those documents should also have been filed at the time of institution of the suit itself. The same plea was taken with respect to Documents No.22 and 23, which were sought to be produced in support of plaintiffs' possession of the plaint schedule property that those were available at

the time of filing of the suit and the plaintiffs having failed to file could not be permitted to file the same at a later point of time.

**II. Impugned Order Dated 04.02.2026:**

9. The learned Special Judge has rejected I.A.No.271 of 2025 on the grounds, briefly stated, mainly that the documents for which leave was sought to receive, were much prior to the institution of COS and also available to the plaintiffs/petitioners. The documents No.1 to 21 were also in the power and custody of the petitioners, the other documents could have been obtained at the time of institution of the suit and mere fact that the plaintiffs obtained registration extracts of sale deeds only recently did not mean that they were not in the power, possession, control or custody of the petitioners. The learned Special Judge also observed that the original plaint was amended which was allowed and the amended plaint filed on 04.08.2025 and still those documents were not filed within 30 days from the date of filing of the amended plaint, but were filed along with the application on 18.09.2025 beyond the period of 30 days. So, considering the provisions of the Order XI Rule 1 (4) and Order XI Rule 1 (5) CPC the application deserved dismissal. The learned Special Judge also applied the judgment of the Hon'ble Apex Court in the case of ***Sudhir Kumar alias S. Baliyan v. Vinay Kumar G.B<sup>1</sup>***.

**III. Submissions of the learned counsels:**

**(i). For Petitioners:**

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<sup>1</sup> (2021) 13 SCC 71

10. Learned counsel for the petitioners submitted that the plaintiffs' case as per the plaint is of an oral agreement for sale dated 28.09.2015 between the plaintiffs and the defendants on the terms and conditions agreed between them as in para-III (i) of the plaint. He submitted that in brief the oral agreement was for sale of Ac.129.125 cents to be sold to the plaintiffs/petitioners for a total sale consideration of Rs.74,30,79,830.00, paid to the defendants excluding TDS amount in a phased manner. Out of the agreed extent of land to be sold, however, sale was made to an extent of Ac.79.89 cents only. He submitted that after the sale as aforesaid, the balance area of Ac.29.93 cents remains to be sold to the plaintiffs, and so, out of the sale consideration settled and paid for the entire land, an amount of Rs.36,22,05,315-00 remained in balance with defendants, to recover which, the plaintiffs made an alternate prayer in the suit.

11. Learned counsel for the petitioners submitted that the copies of the sale deeds to evidence the sale transactions by the defendants in favour of the plaintiffs were not filed along with the original plaint, for the reason that the same were not required as the sale deeds for an extent of Ac.79.89 cents out of the agreed extent of Ac.129.125 cents had already been transferred. So, there was no dispute on that aspect, and even in the written statement, the transfer and conveyance for an area of Ac.79.89 cents was admitted.

12. However, in the written statement a plea was taken by the defendants that between 2015 to 2018 the total extent of land shown by the 1<sup>st</sup> defendant to the plaintiffs is Ac.76.02 cents for a total sale consideration of

Rs.59,38,92,142/-. In the Financial Year 2018-19 the 1<sup>st</sup> defendant sold an extent of Ac.3.845 cents to the 1<sup>st</sup> and 2<sup>nd</sup> plaintiffs for a sale consideration of Rs.4,32,56,250/-. Thus, in total, the 1<sup>st</sup> defendant sold an extent of Rs.79.865 cents to the 1<sup>st</sup> and 2<sup>nd</sup> plaintiffs for a total sale consideration of Rs.63,71,48,392/- and on the said amount, the plaintiffs paid TDS @ 1% to the Income Tax Department under Section 194 (1A) of the Income Tax Act. The defendants denied the plaintiffs claim of sale of Ac.79.89 cents for a sum of Rs.38,72,46,000/- which was said to be an amount of Rs.63,71,48,392/-, submitting further that if that was true, as alleged by the 1<sup>st</sup> plaintiff in the plaint, the plaintiff ought to have paid TDS amount, less than what was actually paid by the plaintiffs. However, the factum of the Income Tax Returns and Books of Accounts was deliberately suppressed.

13. Learned counsel for the petitioners submitted that in view of that plea taken in the written statement, in order to show the payment of sale consideration for the area of the land conveyed/transferred to the petitioners, the petitioners sought filing of the certified copies of the registered sale deeds. The petitioners' case was that towards the sale already taken place of Ac.79.89 cents, the sale consideration of Rs.38,72,46,000/- had already been paid. But, in view of the dispute raised disputing the payment of the sale consideration, at the amount as pleaded by the plaintiffs in the plaint, but submitting that the amount paid was Rs.63,71,48,392/- which was for the entire land agreed to be sold. As per the defendants case that amount of Rs.63,71,48,392/-, was for the

land already sold. So, the documents were considered to be necessary in view of the defence case and so I.A.No.271 of 2025 was filed.

14. Learned counsel for the petitioners further submitted that to show the possession of the plaintiffs with respect to some more area and also to show the development plan carried by the plaintiffs, some of the documents out of 133 documents sought to be produced were also required to be filed. Learned counsel for the petitioners submitted that certain documents out of 133 documents were also required to be filed in view of the amendment in the plaint which had already been allowed.

15. Learned counsel for the petitioners submitted that the trial has not yet commenced. The issues have yet not been framed in COS and consequently, there was no delay in filing application. The application was filed within the reasonable period from the date of the amendment in the plaint. He submitted that the cause shown was a reasonable cause and the learned Special Judge ought to have granted the leave and ought to have taken those documents on record.

16. Learned counsel for the petitioners placed reliance in ***M/s.C-Star Engineers & Contractors (C-180) v. IDMC Limited***<sup>2</sup> in support of the contention that the expression 'sufficient cause' or the 'satisfaction of the Court' with respect to the cause is to be considered liberally granting opportunity to the parties for effective adjudication of COS. Learned counsel for the petitioners further placed reliance in ***Bennett Coleman & Co.Ltd. v. ARG***

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<sup>2</sup> 2025 (1) ALT 707

***Outlier Media Pvt.Ltd.***<sup>3</sup> and contended that the filing of the application to bring on record the documents which could not be disclosed and filed along with the plaint was necessitated, in view of the defendants' pleadings in the written statement. He referred to Order XI Rule 1 (1) (c) (ii) CPC and submitted that in view of the said provision, the application could not be rejected on the ground it has been rejected.

**(ii). For the Respondents:**

17. Sri N. Subbarao, learned senior Advocate, appearing for the respondents, submitted that it was the plaintiffs' case as per the plaint averments that Ac.79.89 cents had been sold for the sale consideration of Rs.38,72,46,000/-. So, the plaintiffs must have filed the documents, the sale deeds in support of the said contention. But, after such pleading the documents were not disclosed in the plaint nor the list of documents was annexed to the plaint. Consequently, at the belated stage after more than 3 years, the plaintiffs cannot be permitted to seek leave of the Court for filing of the documents. The leave has rightly been rejected as there was no sufficient ground or reasonable cause. He submitted that in view of sub-rule (5) of Rule 1 of Order XI CPC leave of the Court shall not be granted, unless the plaintiffs establish reasonable cause for non-disclosure of the documents along with the plaint, which in his submission was not established.

18. Sri N. Subbarao, learned senior Advocate, further submitted that the documents as has been sought to be filed along with I.A.No.271 of 2025 were

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<sup>3</sup> 2023 SCC OnLine Del 1457

not original documents, but certified copies of sale deeds. He submitted that the certified copies of the sale deed are not primary evidence and consequently, unless the conditions for production of the secondary evidence as contemplated in Section 65 of the Evidence Act were satisfied, the documents could not be permitted. He submitted that though that is not a ground in the impugned order for rejecting the application, but that is the additional submission to support the impugned order.

19. Learned senior counsel further submitted that the document being sought to be filed were unconnected to the amendment of the plaint and consequently, it cannot be said that in view of the amendment made, the documents were sought to be filed. In his submission all those documents are of a date prior to the date of institution of the suit but were not disclosed. Those documents are also not related to the amended part. Alternatively, he submitted that even if it be taken that some of the documents related to the amended part, taking the submission of the petitioners' counsel for the time being, still I.A. was filed belatedly and after more than 30 days of filing of the amended plaint. He submitted that no illegality has been committed by the learned Special Judge in rejecting the application. The Order is fully inconsonance with the provisions of Order XI Rule 1 (1) (5) CPC.

20. Learned counsel for the respondents also placed reliance in ***Sudhir Kumar v. Vinay Kumar G.B***<sup>4</sup> in support of his contentions.

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<sup>4</sup> (2021) 13 SCC 71

21. We have considered the aforesaid submissions and perused the material on record.

**IV. Point for determination:**

22. The following point arises for consideration and determination:

“Whether the learned Special Judge committed error of law in rejecting I.A.No.271 of 2025 in C.O.S.No.11 of 2022, for leave to file documents under Or XI Rule 1 CPC?”

**V. Consideration:**

**A. Statutory provisions & proceedings and Analysis:**

23. Order XI Rule 1 CPC reads as under:

“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.

(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.”

24. A bare perusal of the aforesaid provision of Rule 1 (1) shows that the 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 date of filing the plaint, irrespective of whether the same is in support of or adverse to the plaintiff’s case. However clause **(c)** provides that 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. Under sub-Rule (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.

25. In ***Sudhir Kumar Alias S.Baliyan*** (supra), the Hon’ble Apex Court held that the additional documents can be permitted to be brought 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 subject to grant of such leave by the Court. The plaintiff shall file additional documents in Court within 30 days of filing the suit. The Hon'ble Apex Court held 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. The Hon'ble Apex Court held that on combined reading of Order 11 Rule 1(4) read with Order 11 Rule 1(5) it emerged 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.

26. In ***Sudhir Kumar Alias S.Baliyan*** (supra) it was further held that however, 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 a 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 the plaint was filed. 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. 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.

27. In ***M/s.C-Star Engineers & Contractors (C-180)*** (supra) a Coordinate Bench of this Court held that what follows from Order XI Rule 1(5), is that the documents, which were in the plaintiff's power, possession, control or custody and were not disclosed along with plaint or within the extended period, can still be allowed to be relied upon by the leave of the Court. Such leave shall be granted only upon the reasonable cause being established by the plaintiffs for non-disclosure of those documents and not filing along with the plaint. It was further held applying the principles of law as laid in ***Sudhir Kumar alias S. Baliyan*** (supra) that the expression the 'reasonable cause' to grant leave, is of utmost importance and should be considered, in correct perspective, liberally to advance the substantial justice, the provisions of Order 11, Rule 1 being procedural in nature.

28. In ***M/s. C-Star Engineers & Contractors (C-180)*** (supra), which is under Order 11 Rule 1(5) of CPC as applicable to the Commercial Courts Act, a Co-ordinate Bench held that applying the principle of law as in ***Sugandhi*** (supra) and ***Sudhir Kumar*** (supra) that if the document was not in power, possession, control or custody of the plaintiff, the provisions of Order 11, Rule 1(5) CPC shall not apply. Para Nos.20, 21, 23 & 24 in ***M/s. C-Star Engineers & Contractors (C-180)*** reads as under:

“20. In *Sugandhi* (supra) the Hon'ble Supreme Court held that the procedure is the handmade of justice. Procedural and technical hurdles shall not be allowed to come in the way of Court while doing substantial justice. If the procedural

violation does not seriously cause prejudice to the adverse party, Courts must lean towards doing substantial justice rather than relying upon the procedural and technical violation. The litigation is nothing but a journey towards truth which is the foundation of justice and the Court is required to take appropriate steps to thrash out underlying truth in every dispute. Therefore, the Court should take a lenient view when an application is made for production of the documents under sub rule (3).

**21.** In *Sugandhi's* (supra), an application was filed assigning cogent reasons for not producing the documents along with the written statement. That application was filed by the defendants and it was stated that those documents were missing and were only traced at a later stage. It could not be disputed that those documents were necessary for arriving at a just decision in the suit, the Hon'ble Apex Court held that the Courts below ought to have granted leave to produce those documents.

**23.** Applying the principle of law as in *Sugandhi* (supra) and *Sudhir Kumar* (supra), to the facts of the present case, we find that the plaintiff had stated that the documents, now sought to be filed with the leave of the Court, which were presumed to be missing during the shifting of the petitioner's office, and could be traced at a later stage. So, at the time of presentation of the plaint, it cannot be said to be in power, possession, control or custody of the plaintiff at that time. Even if it was not specifically so said, upon which the learned Special Judge has laid much emphasis to reject the applications, such a plea necessarily follows from the plea taken about missing of the document while 'shifting of office'. So, if the document was not in power, possession, control or custody of the plaintiff, the provisions of Order 11 Rule 1(5) CPC shall not apply, as they apply to the documents in power, possession, control or custody of the plaintiff, but not disclosed at the time of the filing of the plaint.

**24.** Even if it be taken that, as the plaintiff did not mention that those documents were not in his power, possession, control or custody and so, they were in the plaintiff's power, possession, control or custody, which appears to be the reasoning and the view taken by the learned Special Judge, expression the 'reasonable cause' to grant leave, is of utmost importance and should have

been considered, in correct perspective, liberally, to advance substantial justice, the provisions of Order 11 Rule 1 being procedural in nature.”

29. So far as the pleadings of the plaintiffs with respect to the extent of the land transferred under various sale deeds from time to time i.e., Ac.79.89 cents is concerned, there is no dispute in the pleadings of the written statement. Transfer to an extent of Ac.79.89 cents is admitted. According to the plaintiffs/petitioners out of the total area to be sold, only Ac.79.89 cents was sold for which the plaintiffs paid Rs.38,72,46,000.00 and the balance area of land was required to be transferred under the oral agreement dated 28.09.2015, for which the balance of the sale consideration was already with the defendants. Whereas the case of the defendants was that for the land already transferred an amount of Rs.63,71,48,392/- had been paid. The plea taken in substance was that the total sale consideration as paid by the plaintiffs pursuant to the oral agreement of sale was for the area of Ac.79.89 cents the land which had already been transferred. So, the further case was that in fact nothing remained to be transferred under the said oral agreement of sale and the total sale consideration paid was for the area already transferred is i.e., Ac.79.89 cents.

30. List of documents as shown in the tabular format of the application, which are all of a date prior to the institution of the suit, these include certified copy of various sale deeds; CRMS challans issued by the Government of Andhra Pradesh, Resolution of the Gram Panchayats, Proceedings of Metropolitan Commissioner; the Receipts of payments of land conversion charges, Photos

taken from GPS map camera showing development of lay out at different locations etc., and some are referable to the amendment made in the plaint in 2025.

31. The case of the defendants and the arguments advanced is that those documents were in power, possession, control or custody of the plaintiffs; or in any case they were available in public domain and being of the date prior to the institution of the suit could have been obtained disclosed and filed along with the plaint.

32. The submission of the learned senior counsel for the respondents is that the documents sought to be filed are the certified copies of the sale deeds and such other documents but not the original and the plaintiff could have obtained those documents prior to filing of the suit as those documents are of a date prior to the suit and public document, so those documents could be obtained from the respective authorities or the department such as the Registration; the Gram Panchayat; and Municipal Corporation and could be filed.

33. Learned Special Judge has recorded that "in the present case, all the documents sought to be produced by petitioners could have been obtained by them at the time of institution of suit itself. Mere fact that they obtained registration extracts of sale deeds only recently does not mean that they were not in the power, possession, control or custody of petitioners. The petitioners could have obtained the same with reasonable efforts. The documents No.1 to 21 were also in the power and custody of petitioners." So, the Court has taken

the view that because the petitioners could have obtained those documents with reasonable efforts so the certified copy of the sale deeds were in the power, possession, control and custody of the plaintiffs.

34. So, the question is "whether the documents which could be obtained, being public document and filed with the plaint", can be said to be in the power, possession, custody or control of the plaintiff's, unless obtained actually. Those documents even if could be obtained, whether 'to obtain' is something different from being in power, possession, control or custody of the plaintiff or the same thing as covered under those expressions, so as to attract Order 11 Rule 1(1) & (5) CPC. We are of the view that those documents which could be obtained and then filed, cannot be said to be in power, possession, custody and control of the plaintiffs. A finding to the contrary, recorded by the learned Special judge, simply because those documents related to a date prior to the institution of a suit and could be obtained cannot be sustained. In our view the date of the documents, even if prior to the institution of a suit, would not automatically make those documents in power, possession and control of the plaintiffs at the time of filing the suit. What is relevant is, if those documents sought to be filed were in possession, power, control and custody of the plaintiffs or not and not the mere date of those documents being prior to the institution of the suit or which could have been obtained for filing with the plaint. The expression power, possession, control and custody means actual possession, power, control and custody and it cannot be deemed or constructive possession, nor that by making reasonable effort the document

could be taken into power, possession, control and custody. In ***M/s. C-Star Engineers & Contractors (C-180)*** (supra), the documents which were misplaced were held not to be in power, possession, control and custody. In the present case there is no finding of the documents being in power, possession, control and custody of the petitioner but the finding is that with reasonable effort those documents could have been obtained. On such a finding Rule 1(1) shall not be attracted and the permission to take those documents on record could not be denied.

35. A perusal of the pleadings in the suit would show that the aforesaid documents sought to be filed are not contrary to the pleadings of the plaintiff. It is also not the case of the defendants that those documents are contrary to the pleadings. In our considered view the aforesaid documents cannot be said to be not relevant for adjudication of the controversy in the COS, *inter alia*, to determine the total sale consideration paid, for the transferred land of Ac.79.89, and so to adjudicate the entire area, claimed to be agreed to be sold and also what was the total amount paid under those sale deeds, for an area of Ac.79.89.

**B. Filing of documents in view of the stand taken in written statement**

36. The necessity of getting the certified copy and filing the same, as per the case of the plaintiffs arose in view of the stand taken by the defendants in the written statement. They then obtained those documents and sought

permission to file, along with the application. Such submission appears to have force on perusal of the stand taken by the defendants in the written statement.

37. Learned counsel for the respondents submitted that Rule 1 (1), clause (c) (ii) which speaks that 'this Rule' shall not apply in the cases covered under clause (c) (i) to (iii), excludes the applicability of sub-rule (1) only. He submitted that even if it be taken that clause (c) (ii) was attracted in the present case, even then in view of sub-Rule (5) the application could not be allowed as those documents were in power, possession, control or custody of the plaintiffs and there was no reasonable cause for filing of those documents belatedly and also for not disclosing in the plaint. So, for non-disclosure, for no reasonable cause the application could not be allowed. Learned senior counsel submitted that sub-Rule (5) is independent of sub-Rule (1) and clause (c) (ii) excludes the applicability of sub-rule (1) only, even in those cases in which clause (c) (ii) is attracted. He submitted that clause (c) says 'this rule', so what is excluded is sub-rule (1) and not the entire rule 1 nor sub-rule (5).

38. The aforesaid submission does not appeal us and deserves rejection.

39. Clause (c) clearly speaks of Rule 1. Rule 1 contains 12 sub-rules. It is not correct that sub-rule (5) is outside Rule 1. It is a sub-rule of Rule 1. What has been excluded is 'this rule'. That is Rule 1. So, we are of the view that all the sub-rules in Rule 1 stands excluded in case of applicability of clause (c) (i) to (iii). A clear expression 'this rule' has been used in clause (c). We cannot read 'rule' as sub-rule (1) only of rule 1. There is clear distinction between rule and sub-rule. Sub-rule is part of the Rule. So, exclusion or non-

applicability of rule 1, is for rule 1 as a whole and not for any particular sub-rule only, but for all the sub-rules as a whole.

40. Even a reading of sub-rule (5) shows that it uses the same expressions as have been used in sub-rule (1) i.e. power, possession, control or custody. So, even if for the time being the argument of the learned senior counsel for the respondents be accepted that, clause (c) excludes the applicability only of sub-rule (1), then also, sub-rule (5) which refers to sub-rule (1) cannot be applied to a case attracting clause (c) (i) to (iii). In our view, sub-rule (5) is in the nature of an exception of sub-rule (1), as it permits with the leave of the Court on establishing sufficient cause for not disclosure with the plaint. So, if the disclosure was not required in cases of clause (c) (i) to (iii), in the plaint on the submission of sub-rule (1) having been excluded, then also, there would be no question of pleading any sufficient cause for such non-disclosure under sub-rule (5). Even if the applicability of only sub-rule (1) is taken as excluded, taking the submission of the learned senior counsel, then also automatically sub-rule (5) shall also stand excluded.

41. So, we are of the view that what is excluded is, Rule 1 in its entirety i.e., all the sub-rules, in case clause (c) is attracted. Any other view would be re-writing and legislating sub-rule (c) (i) to (iii) which generally and ordinarily is not the function of the Court.

42. In ***Bennett Coleman & Co. Ltd.*** (supra), the Delhi High Court held that the document as were sought to be filed were covered within the ambit of sub-rule (1) (c) (ii) of Rule (1) of Order XI CPC in terms of which the plaintiff

would be entitled to file the documents in response to a case set up by the defendants after filing of the plaint. The Delhi High Court held that even if those documents were available in public domain at the time of filing of the suit and should have been filed along with the plaint, the need for filing of those documents arose only on account of the stand taken by the defendants in the written statement. Paragraph-7 of ***Bennett Coleman & Co. Ltd.*** (supra) reads as under:

“7. A perusal of the additional documents sought to be placed on record by the plaintiff would show that the said documents are the examination reports of the Registry and the responses thereto by the defendants. All the aforesaid documents pertain to the defendants. Attention of the Court has been drawn by the counsel for the plaintiff to paragraph 18 of the written statement filed by the defendant no. 2, where a specific stand has been taken by the defendants that the trademark/taglines, which are the subject matter of the present suit are descriptive in nature. The aforesaid contention has been rebutted by the plaintiff in its replication. In order to meet the aforesaid contention of the defendants, the plaintiff seeks to place on record the aforesaid documents to show that in their replies to the examination reports, the defendants have claimed the trademark to be distinctive. **The aforesaid documents are covered within the ambit of sub-rule (1)(c)(ii) of Rule (1) of Order XI of the CPC in terms of which the plaintiff would be entitled to file the documents in response to a case set up by the defendants after filing of the plaint.** Therefore, there is no merit in the submission of the defendants that the aforesaid documents were available in public domain and could have been filed along with the plaint. **Even if the said documents were available in public domain at the time of filing of the suit, the need for filing the aforesaid documents arose only on account of the stand taken by the defendants in the written statement.**”

43. So, even if it be taken that the documents were in possession, power, control and custody of the plaintiffs Clause (c) (ii) is attracted and the applicability of Rule 1, stands excluded. The application could not be rejected on the ground of rejection based on sub-rule (1) & (5) of the Order XI Rule 1 CPC.

### **C. Procedural law:**

44. In ***Bunge India Pvt. Ltd., v. Sree Mahalakshmi Oil Mills***<sup>5</sup>, a coordinate Bench held that the settled law is that a procedure is handmaid of justice and the object of prescribing procedure is to advance justice referring to the judgments of Hon'ble Apex Court in ***Sambhaji v. Gangabai*** {(2008) 17 SCC 117}, ***Sugandhi v. P.Rajkumar*** {(2020) 10 SCC 706} and ***Abraham Patani v. State of Maharashtra*** {(2023) 11 SCC 79}. It was held as under:

“37. It is settled in law that the procedure is handmaid of justice. The object of prescribing procedure is to advance justice. In *Sambhajl v. Gangabal*<sup>7</sup> the Supreme Court held that all the rules of procedure are the handmaid of justice. The language employed by the draftsman of procedural law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the statute, the provisions of CPC or any other procedural enactment ought not to be construed in a manner which would leave the Court helpless to meet extraordinary situations in the ends of justice.

38. Paragraph Nos. (10) to (14) of *Sambhaji* (supra) read as under:

“10. *All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but*

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<sup>5</sup> 2026 SCC OnLine AP 808

*the fact remains that the object of prescribing procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the statute, the provisions of CPC or any other procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extraordinary situations in the ends of justice.*

*11. The mortality of justice at the hands of law troubles a Judge's conscience and points an angry interrogation at the law reformer.*

*12. The processual law so dominates in certain systems as to overpower substantive rights and substantial justice. The humanist rule that procedure should be the handmaid, not the mistress, of legal justice compels consideration of vesting a residuary power in the Judges to act *ex debito justitiae* where the tragic sequel otherwise would be wholly inequitable. Justice is the goal of jurisprudence, processual, as much as substantive. ...*

*13. No person has a vested right in any course of procedure. He has only the right of prosecution or defence in the manner for the time being by or for the court in which the case is pending, and if, by an Act of Parliament the mode of procedure is altered, he has no other right than to proceed according to the altered mode. ... A procedural law should not ordinarily be construed as mandatory; the procedural law is always subservient to and is in aid to justice. Any interpretation which eludes or frustrates the recipient of justice is not to be followed. ...*

*14. Processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. Procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice.”*

**39.** In *Sugandhi v. P. Rajkumar*<sup>8</sup> the Supreme Court reiterated that the procedure is a handmade of justice. Procedural and technical hurdles shall not be allowed to come in the way of the Court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, Courts must lean towards doing substantial justice rather than relying upon procedural and technical violation.

**40.** In *Abraham Patani v. State of Maharashtra*<sup>9</sup> the Supreme Court held that when dealing with matters of procedure the old adage of procedural laws being the handmaid of justice must be kept in mind, and that the procedural rules must not be allowed to defeat or hamper the pursuit of justice.

**41.** Paragraphs-65 to 69 of *Abraham Patani* (supra) read as under:

*“65. Adverting to the first submission, we acknowledge the unambiguous language of Section 91 which contemplates an application being submitted by the Commissioner, Respondent 3. However, when dealing with such matters of procedure the old adage of procedural laws being the handmaid of justice must be kept in mind. As has been exhaustively and extensively reiterated by this Court in the past, procedural rules must not be allowed to defeat the basic purpose of a statute or hamper the pursuit of justice unless violation of the procedure would itself amount to grave injustice.*

**66.** In *Sangram Singh v. Election Tribunal* [*Sangram Singh v. Election Tribunal, (1955) 1 SCC 323 : (1955) 2 SCR 1 : AIR 1955 SC 425*] this Court in the context of procedural rules held: (*AIR p. 429, para 16*)

*“16. ... It is “procedure”, something designed to facilitate justice and further its ends: not a penal enactment for punishment and penalties; not a thing designed to trip people up. Too technical a construction of sections that leaves no room for reasonable elasticity of interpretation should therefore be guarded against (provided always that justice is “done” to both sides) lest the very means designed for the furtherance of justice be used to frustrate it.”*

*(emphasis supplied)*

**67.** Similarly, in *Ghanshyam Dass v. Union of India* [*Ghanshyam Dass v. Union of India, (1984) 3 SCC 46*] the ethos behind “adjective law” was elaborated upon while dealing with issuance of notice under Section 80 of the Civil Procedure Code: (*SCC p. 54, para 12*)

*“12. In the ultimate analysis, the question as to whether a notice under Section 80 of the Code is valid or not is a question of judicial construction. The Privy Council and this Court have applied the rule of strict compliance in dealing with the question of identity of the person who issues the notice with the person who brings the suit. This Court has however adopted the rule of substantial*

*compliance in dealing with the requirement that there must be identity between the cause of action and the reliefs claimed in the notice as well as in the plaint. As already stated, the Court has held that notice under this section should be held to be sufficient if it substantially fulfils its object of informing the parties concerned of the nature of the suit to be filed. On this principle, it has been held that though the terms of the section have to be strictly complied with, that does not mean that the notice should be scrutinised in a pedantic manner divorced from common sense. The point to be considered is whether the notice gives sufficient information as to the nature of the claim such as would the recipient to avert the litigation.”*

*(emphasis supplied)*

**68.** *In the same vein, Sugandhi v. P. Rajkumar [Sugandhi v. P. Rajkumar, (2020) 10 SCC 706 : (2021) 1 SCC (Civ) 116] promoted an approach that sought to achieve substantial justice when confronted with breaches of procedural law, especially when the other party did not suffer any significant prejudice. This Court opined: (SCC pp. 708-709, para 12)*

*“9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute.”*

*(emphasis supplied)*

**69.** *A Constitution Bench of this Court in State of U.P. v. Babu Ram Upadhyia [State of U.P. v. Babu Ram Upadhyia, 1960 SCC OnLine SC 5 : (1961) 2 SCR 679 : AIR 1961 SC 751], while laying down the test for determining if the legislature intended for a provision to be Directory or mandatory in nature, held as follows: (AIR p. 765, para 29)*

*“29. ... For ascertaining the real intention of the legislature, the Court may consider, inter alia, the nature and the design of the statute, and the*

*consequences which would follow from construing it the one way or the other, the impact of other provisions whereby the necessity of complying with the provisions in question is avoided, the circumstance, namely, that the statute provides for a contingency of the non-compliance with the provisions, the fact that the non-compliance with the provisions is or is not visited by some penalty, the serious or trivial consequences that flow therefrom, and, above all, whether the object of the legislation will be defeated or furthered.”*

*(emphasis supplied)”*

42. The provision of Order VIII as amended for Commercial Courts still retain the character of the procedural provisions. We are not saying that the time limit is not to be adhered nor that the object with which the Act has been brought into force to decide expeditiously the commercial disputes should be ignored, or that it should be construed to defeat the object; but we say that, the nature of the amended CPC applicable to the Commercial Courts Act is still a procedural law, which cannot be allowed to override the substantive rights even in its application to the Commercial Courts.”

**D. Other submissions:**

45. The submission of the learned counsel for the respondents is that the certified copy of the sale deeds were not the primary evidence and could not be allowed unless the proof of loss of the primary evidence was established in view of Section 65 of the Indian Evidence Act. There is no dispute on the legal provisions of Section 65 of Indian Evidence Act as also the proposition of law with respect to the admissibility of the secondary evidence under the circumstances mentioned therein and unless those circumstances are established, the secondary evidence would not be permissible. But, that aspect of the matter is open for the respondent to be raised before the learned Special Judge, at the appropriate stage of the proceedings. If and when such

objections are raised by the respondents, we do not see any reason as to why such objections will not be considered by the learned Special Judge at the appropriate stage and in accordance with law.

**E. Conclusion:**

46. We are of the considered view that the learned Trial Court committed error in rejecting the application for grant of leave to file the documents annexed to I.A.No.271 of 2025. The order dated 04.02.2026 is liable to be set aside and the documents deserves be taken on record subject to its admissibility to be considered during trial.

**VI. Result:**

47. In consideration of as above, in the result CRP is allowed. The impugned order is set aside with direction to the learned Special Judge to take the documents on record, with the further directions & observations made in this judgment.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

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**RAVI NATH TILHARI, J**

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**BALAJI MEDAMALLI, J**

Date: .05.2026  
Dsr/Ag

Note:  
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