

PUNJAB AND HARYANA HIGH COURT

SINGLE BENCH

(Before : Deepak Gupta, J.)

BESTECH INDIA PRIVATE LIMITED

Vs.

FAKIRA SINGH (NOW SUBSTITUTED BY HIS LRS) AND ANOTHER

CR-3531-2026 and CR-3536-2026

Decided on : 16-07-2026

A. Commercial Courts Act, 2015 — Order 11 Rule 1(10) CPC (as applicable to commercial disputes) — Mandatory disclosure regime — Order XI, as substituted for commercial disputes, casts a mandatory obligation on every party to disclose all documents in its power, possession, control or custody along with its pleadings, and bars reliance on undisclosed documents unless reasonable cause is shown — The object is to ensure complete and timely disclosure at the earliest stage, discouraging piecemeal production that would delay adjudication of commercial disputes. [Paras 10-11]

B. Doctrine of relation back — Not an inflexible rule — Subject to statutory disclosure scheme — An amendment of pleadings ordinarily relates back to the date of the original pleading, but this doctrine is a rule of procedural convenience, not an inflexible principle of universal application — It cannot override the mandatory disclosure obligations of a subsequent statutory framework specifically enacted to secure expedition in commercial litigation; allowing relation back to defeat disclosure would permit indirectly what Rule 1(10) prohibits directly. [Paras 9, 14, 16]

C. Amended written statement — Operative pleading — Disclosure obligation extends to documents available on date of amendment — Once an amended written statement is filed incorporating the defendant's defence, it becomes the operative pleading on which the suit proceeds, and the disclosure obligation under Order XI necessarily extends to all documents then available with the party — the obligation being continuing and co-extensive with the pleadings on record, not exhausted upon filing of the original written statement. [Paras 12-13]

D. Documents earlier available but undisclosed — Reasonable cause not shown — Refusal of permission justified — Where documents admittedly

existed and were available with the party before filing of the amended written statement, and no satisfactory explanation was furnished for their non-disclosure at that stage, the requirement of showing reasonable cause under Rule 1(10) remains undischarged; the finality already attained by an earlier rejection covering the same document cannot be reopened. [Paras 18-19]

E. Stage of proceedings — Post-conclusion of plaintiff's evidence — Heightened diligence expected — While advancement of trial is not by itself an absolute bar to production of documents, the stage of proceedings assumes considerable significance in commercial litigation; once the plaintiff's evidence stands concluded, greater diligence is expected of the defendant in establishing sufficient cause for non-disclosure, absent which permission may properly be declined. [Para 20]

F. Supervisory jurisdiction — Article 227 of the Constitution — Scope of interference — Jurisdiction under Article 227 is supervisory, not appellate; the High Court does not substitute its own view for that of the subordinate court merely because another view is possible, and interferes only where the order suffers from patent perversity, manifest illegality, or jurisdictional error — none of which was shown, warranting dismissal of the revision petitions. [Paras 21-23]

Counsel for Appearing Parties

Mr. Ashish Chopra, Sr. Advocate with Ms. Rupa Pathania, Advocate and Mr. Abhinav Kaushik, Advocate for the Petitioner; Mr. Amit Jain, Advocate for Respondent No.1.

JUDGMENT

Deepak Gupta, J. - The present revision petitions are directed against two similar orders both dated 19.02.2026 in two cases of same nature, passed by the learned Additional District Judge-cum-Presiding Judge, Exclusive Commercial Court, Gurugram, whereby an application moved by the petitioner - defendant under Order XI Rule 1(10) of the Code of Civil Procedure, 1908, as applicable to commercial disputes, has been partly allowed.

2. While permitting the petitioner to place on record three documents, the Commercial Court declined permission qua two documents, namely, the duly stamped and signed audited balance sheet for the financial year 2021-22 and the Corporate Social Responsibility Report, both dated 27.09.2022 [Annexures P-14 & P-15].

3.1 Learned Senior Counsel appearing on behalf of the petitioner submits that the Commercial Court has misconstrued the liberty granted by the Hon'ble Supreme Court, while dismissing the Special Leave Petition preferred by the petitioner. It is argued that although the earlier application under Order XI Rule 1(10) CPC seeking permission to produce thirteen documents had been rejected by the Commercial Court and the said order was affirmed by this Court as well as by the Hon'ble Supreme Court, yet the

Supreme Court specifically clarified that dismissal of the Special Leave Petition would not preclude the petitioner from filing a fresh application in respect of production of such documents, which were not in the power, possession, control or custody of the petitioner on the date of filing of the written statement.

3.2 It is contended that pursuant to the aforesaid liberty, the petitioner confined its subsequent application to five documents, which included three documents forming part of earlier application. Out of those, the Commercial Court itself permitted production of three documents, while declining permission only regarding the audited balance sheet for the financial year 2021-22 and the CSR Report. Learned Senior Counsel submits that the said approach is legally unsustainable.

3.3 It is urged that the original written statement had been filed on 03.03.2022. Subsequently, an application for amendment of the written statement having been allowed, the amended written statement filed on 11.04.2024 related back to the date of filing of the original written statement. Since the two disputed documents admittedly came into existence on 27.09.2022, i.e., subsequent to 03.03.2022, they could not

have been in the power, possession or custody of the petitioner on the date of filing of the written statement. It is, therefore, argued that the Commercial Court committed a patent error in refusing permission to produce the said documents.

3.4 In support of the aforesaid submission, reliance has been placed upon the judgments of the Hon'ble Supreme Court in **Siddalingamma and another versus Mamtha Shenoy, (2001) 8 SCC 561; Sampath Kumar versus Ayyakannu and another, (2002) 7 SCC 559; Prithi Pal Singh and another versus Amrik Singh and others, (2013) 9 SCC 576; and Vasant Balu Patil and others versus Mohan Hirachand Shah and others, (2016) 1 SCC 530**, to contend that an amended pleading ordinarily relates back to the date of the original pleading.

4.1 Per contra, learned counsel appearing for the respondents submits that the petitioner seeks to enlarge the scope of the liberty granted by the Hon'ble Supreme Court. It is argued that the Supreme Court consciously declined interference with the earlier order and merely permitted filing of a fresh application regarding documents, which were not in the petitioner's power, possession, control or custody on the relevant date. It is submitted that both the disputed documents were admittedly prepared on 27.09.2022 and were available with the petitioner much before the amended written statement came to be filed. Therefore, the petitioner cannot invoke the liberty granted by the Hon'ble Supreme Court.

4.2 Learned counsel has drawn attention towards the admission of petitioner that application for amendment of written statement was moved on 11.04.2023, which clearly means that even on that date, the documents Annexures P-14 and P-15, having come into existence in September 2022 were within the knowledge of the petitioner.

4.3 Learned counsel further submits that the Commercial Courts Act prescribes a stringent regime of disclosure under Order XI CPC, the object whereof is to ensure complete and timely disclosure of all documents at the earliest stage so as to avoid delay in adjudication of commercial disputes. The petitioner having failed to disclose the documents despite their availability cannot be permitted to produce them at the stage

when the plaintiffs had already concluded their evidence and the case had reached the stage of defence evidence. Reliance has also been placed upon the judgment in '**M/s Levitate Mobile Technologies Pvt. Ltd. versus M/s Standard Chartered Bank and others**' Law Finder Doc Id # 2937237.

5. I have considered the rival submissions and have perused the record.

6. The controversy mainly revolves around the interpretation of the liberty granted by the Hon'ble Supreme Court and the true scope of Order XI Rule 1(10) CPC as applicable to commercial disputes.

7. It is not disputed that an earlier application moved by the petitioner seeking permission to produce thirteen additional documents stood rejected by the Commercial Court. The said order was affirmed by this Court as well as by the Hon'ble Supreme Court. While dismissing the Special Leave Petition on 19.05.2025 vide Annexure P-12, the Hon'ble Supreme Court declined to interfere in the order dated 12.03.2025 (Annexure P-11) of this court but clarified that the dismissal would not come in the way of the petitioner filing a fresh application in respect of production of such documents, which were not in its power, possession, control or custody on the date of filing of the written statement.

8. Thus, the liberty granted by the Hon'ble Supreme Court was neither unconditional nor unrestricted. It was expressly circumscribed by the condition incorporated therein. Consequently, the Commercial Court was required to examine whether the documents sought to be produced satisfied the condition stipulated by the Hon'ble Supreme Court.

9. In this regard, the entire edifice of the petitioner's argument rests upon the doctrine of relation back. There can be no dispute regarding the proposition laid down in the judgments cited by the learned Senior Counsel that ordinarily an amendment of pleadings relates back to the date of institution of the original pleading. However, the doctrine of relation back is not an inflexible rule of universal application. It is merely a procedural principle evolved to avoid multiplicity of litigation and is always subject to the statutory scheme governing the proceedings as also to the nature and object of the order under which the amendment is permitted.

10. In the present case, the proceedings arise under the Commercial Courts Act, which has introduced an entirely different procedural regime by substituting Order XI of the Code. The amended provisions cast a mandatory obligation upon every party to disclose all documents in its power, possession, control or custody along with its pleadings. Rule 1(10) specifically bars reliance upon documents not so disclosed unless reasonable cause is established for such non-disclosure.

11. The legislative intent is evident. Commercial disputes are required to proceed on the basis of complete disclosure at the earliest stage. Piecemeal production of documents is discouraged so that trial is not delayed by successive applications for production of evidence.

12. Viewed in that backdrop, the expression "written statement" occurring in the order of the Hon'ble Supreme Court cannot be read divorced from the statutory obligations imposed by Order XI. Once the petitioner sought amendment of the written statement and filed an amended written statement incorporating its defence, the amended written

statement became the operative pleading on the basis whereof the suit was thereafter required to proceed. Consequently, the obligation of disclosure necessarily extended to all documents then available with the petitioner.

13. There is yet another aspect of the matter. The disclosure regime introduced under Order XI by the Commercial Courts Act is not exhausted upon the filing of the original written statement. The obligation cast upon a party to disclose all documents in its power, possession, control or custody is a continuing procedural obligation co-extensive with the pleadings on record. Whenever a Court permits amendment of pleadings and an amended written statement is filed, the amended pleading becomes the foundation of the defence and the obligation of disclosure necessarily extends to all documents then available with the party. To hold otherwise would defeat the very object of the Commercial Courts Act.

14. A litigant could conveniently obtain amendment of the written statement and yet claim exemption from disclosure of documents, which admittedly existed on the date of filing of the amended written statement by relying upon the doctrine of relation back. Such an interpretation would render the statutory discipline incorporated in Order XI largely otiose and would encourage piecemeal disclosure, contrary to the legislative intent of ensuring early, complete and candid disclosure in commercial litigation. The doctrine of relation back, being a rule of procedural convenience, cannot be permitted to dilute or override the mandatory obligations created by a subsequent statutory framework specifically enacted to secure expedition and certainty in adjudication of commercial disputes.

15. The decisions relied upon by the learned Senior Counsel, therefore, cannot be read as laying down that for every statutory purpose an amended pleading must invariably be treated as having been filed on the date of the original pleading. Those decisions were rendered in entirely different factual and statutory settings while considering the effect of amendment on the maintainability of proceedings or limitation. None of them considered the special disclosure obligations introduced under Order XI of the Code as substituted by the Commercial Courts Act. The ratio of those judgments, therefore, cannot be extended to dilute the mandatory disclosure regime applicable to commercial disputes.

16. Acceptance of the petitioner's submission would virtually defeat the object of Order XI. It would mean that even where documents were admittedly available on the date when the amended written statement was filed, a party could still avoid disclosure by tracing the pleading back to the date of the original written statement. Such an interpretation would not only frustrate the object of the Commercial Courts Act but would also permit a party to achieve indirectly what it is prohibited from doing directly under Rule 1(10).

17. Likewise, the submission that the Commercial Court has acted contrary to the liberty granted by the Hon'ble Supreme Court, is not tenable. The liberty contained in the order dated 19.05.2025 cannot be read in isolation. It has to be construed harmoniously with the statutory provisions under which the application itself was maintainable. The Hon'ble Supreme Court merely removed the procedural embargo created by the earlier rejection and permitted the petitioner to maintain a fresh

application, if the documents satisfied the condition mentioned therein. The order did not dispense with the statutory requirements of Order XI Rule 1(10), nor did it direct that every document coming into existence after the original written statement must necessarily be received in evidence. The Commercial Court was still required to examine whether the documents satisfied the statutory parameters and whether reasonable cause for their previous non-disclosure had been established. The impugned order reflects precisely such an exercise and, therefore, cannot be said to be inconsistent with the order passed by the Hon'ble Supreme Court.

18. Still further, it is not disputed before this Court that both the disputed documents were prepared on 27.09.2022. Equally undisputed is the fact that when the amended written statement came to be filed, both these documents were already available with the petitioner. The petitioner has failed to furnish any satisfactory explanation as to why these documents were not disclosed at that stage. The requirement under Order XI Rule 1(10) is not merely to establish relevance of the documents but also to show reasonable cause for their earlier non-disclosure. The petitioner has failed to discharge the said burden.

19. There is one more aspect to be noticed. The audited balance sheet for the financial year 2021-22 had already formed part of the earlier application, which stood rejected and the said rejection attained finality up to the Hon'ble Supreme Court. The clarification issued while dismissing the Special Leave Petition cannot be construed as reopening of the issues, which had already attained finality. The liberty was consciously confined only to the documents not within the petitioner's power, possession, control or custody on the relevant date. The Commercial Court has merely implemented the said direction and cannot be said to have either enlarged or curtailed the scope thereof.

20. The contention of the respondents that the application came to be filed after conclusion of the plaintiffs' evidence also deserves acceptance. Although advancement of the trial is not by itself an absolute bar against production of documents, but the stage of proceedings assumes considerable significance in a commercial litigation. The disclosure obligations under Order XI are intended to prevent surprise and ensure certainty in trial. Once the plaintiffs had concluded their evidence and the matter had reached the stage of defence evidence, greater diligence was expected from the petitioner - defendant in establishing sufficient cause for non-disclosure. No such cause has been demonstrated.

21. The Commercial Court has adopted a balanced approach. It permitted production of those documents, which admittedly came into existence after filing of the amended written statement, while declining permission regarding those documents, which were already available with the petitioner. Simultaneously, liberty has been granted to the respondents to raise all objections regarding admissibility, relevancy and mode of proof at the appropriate stage. The discretion exercised by the Commercial Court is thus neither arbitrary nor perverse.

22. The jurisdiction of this Court under Article 227 of the Constitution is supervisory and not appellate. Unless the order under challenge suffers from patent perversity, manifest illegality or jurisdictional error, this Court would not substitute its own view merely because another view is also possible. The impugned order reflects due

consideration of the statutory provisions, the order passed by the Hon'ble Supreme Court and the facts of the case. No jurisdictional error or material irregularity warranting interference has been established.

23. Consequently, finding no merit in the present revision petitions, the same are dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of. A photocopy of this order be placed on the file of connected case.