

KABC170000652022



**IN THE COURT OF LXXXVI ADDL. CITY CIVIL & SESSIONS
JUDGE, COMMERCIAL COURT, BENGALURU (CCH-87)**

Dated on this the 29th of July, 2025

Present: Sri. Jithendranath C.S., B.A., LL.M.,
LXXXVI Addl. City Civil & Sessions Judge,
Bengaluru.

COM.O.S.No.945/2021

BETWEEN:

PLAINTIFF : Mr. K.A. Mohammad Ali,
(By Sri.Achappa P. B, Advocate)

-Vs -

DEFENDANT : Mrs. Asha. L. @ Asha Chetan Kumar,
(By Sri. A.S.G., advocate)

In I.A.No.14

**Under Section 151 of the Code of Civil
procedure, 1908**

Between:

Applicant : Mrs. Asha. L. @ Asha Chetan Kumar,
(By Sri. A.S.G., advocate)

AND

OPPONENT : Mr. K.A. Mohammad Ali,
(By Sri.Achappa P. B, Advocate)

ORDERS ON I.A.No.14

Plaintiff Mr.K.A. Mohammad Ali and his power of attorney holder - Smt.Komal S.P have allegedly sold their 'Unisex Saloon' named after 'Purple Tree' to the defendant Smt.Asha L Alias Asha Chetan Kumar for a consideration of Rs.56,00,000/-. The parties have allegedly entered into an 'agreement for sale of stock in trade, furniture effects' dated 03.08.2018. The defendant on different occasions paid a sum of Rs.27,00,000/-. According to the plaintiff in ordered to pay the remaining sale consideration of Rs.29,00,000/-, the defendant had issued two cheques for Rs.10,00,000/- each and another cheque for Rs.9,00,000/-. The cheques for Rs.10,00,000/- and Rs.9,00,000/- became dishonoured and the plaintiff initiated criminal prosecution u/Sec.138 of NI Act. Based on the another cheque for Rs.10,00,000/- the plaintiff has filed the present suit for recovery of sale Rs.10,00,000/-, interest thereon and also the cost of the legal notice, in all Rs.16,10,500/- along with future interest at the rate of 18% p.a.

2. The defendant Smt.Asha Chetan Kumar has filed Com.O.S.797/2022 before this court admitting that she had

entered into an agreement through which she had agreed to pay Rs.56,00,000/-, out of which she had paid Rs.27,00,000/-. She, however, was compelled to cancel the agreement dated 03.08.2018 and called upon the plaintiff Sri.Abdul Kadhira Mohammad Ali and Smt.Komal S.P to refund Rs.27,00,000/-. When they failed to refund the same, she was constrained to file Com.O.S.797/2022.

3. Smt.Komal S.P. is the defendant No.1 and whereas Sri.K.A. Mohammad Ali is the defendant No.2 of Com.O.S.797/2022. In the said case defendant No.1 Smt.Komal S.P. alone appeared. Smt.Asha Chetan Kumar could not able to serve the summons to Sri.K.A. Mohammad Ali. Smt.Asha Chetan Kumar, therefore, requested the court to direct Smt.Komal S.P to furnish the address of Sri.K.A. Mohammad Ali. This court by its order dated 08.12.2022 allowed her request and directed Smt.Komal S.P to furnish the address of Sri.K.A. Mohammad Ali. Feeling aggrieved by the said order Smt.Komal S.P filed W.P.No.24917/2022 and Com.A.P.458/2022 wherein the Hon'ble High Court of Karnataka, Bengaluru stayed the proceedings of Com.O.S.797/2022.

4. In the present case the parties have filed their respective pleadings and the court has also framed the issues. When the matter was posted for cross examination of PW.1, the advocate for defendant filed IA No.14 u/Sec.151 of CPC seeking consolidation of both cases for common disposal.

5. Advocate for plaintiff filed his detailed objections and requested the court to reject the application.

6. The court has heard both the sides.

1. Whether the facts and circumstances, give raise to consolidate both the cases for common disposal?

7. My answer to the above point is as under:

Point No.1 : In the **negative**.

REASONS

8. There is no dispute with respect to the entering into the sale Agreement between the parties for consideration of Rs.56,00,000/-. It is also not in dispute that Smt.Asha Chetan Kumar has paid Rs.27,00,000/-. According to her she has canceled the agreement and filed the suit for refund of the said amount of Rs.27,00,000/-. According to the plaintiff Sri.K.A.

Mohammad Ali, the cheque issued by Smt.Asha Chetan Kumar for Rs.10,00,000/- is recoverable liability and hence, she is liable to pay the said amount along with interest and legal notice charges.

9. The issues of the cases are distinct. There is no compelling circumstances to consolidate both the cases for common disposal. Even if the prayers sought for in each case is granted there would not be any conflicting decisions. Learned counsel for the plaintiff has cited a decision of the Hon'ble Supreme Court of India in the case of **S.G.Jain v/s Bindeshwari Devi** reported in 1997RLR416. In the said case, the suit was for recovery of possession and another suit for damages were pending. The Hon'ble Supreme Court of India ordered to conduct separate trails but to pass a common judgment and decree.

10. Com.O.S.797/2022 has been stayed and on the other hand, there is no compelling circumstance to consolidate both matters together. Therefore, the application is liable to be dismissed and therefore, the following;

ORDER

The application filed u/Sec.151 of CPC is hereby rejected.

[Dictated to the typist directly on the computer, typed by her, corrected and signed by me then pronounced in the Open Court, dated this the **29th day of July, 2025**]

**(JITHENDRANATH C.S.)
LXXXVI Addl. City Civil & Sessions Judge,
(Commercial Court), Bengaluru.**