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**IN THE COURT OF LXXXII ADDL.CITY CIVIL &
SESSIONS JUDGE, COMMERCIAL COURT, BENGALURU
(CCH-83)**

**PRESENT: SRI. VIDYADHAR SHIRAHATTI, L.L.M.,
LXXXII ADDL.CITY CIVIL & SESSIONS
JUDGE,
BENGALURU.**

Com.O.S.No.1442/2014

Dated on this 18th Day of June 2025

IA No.21

plaintiff Sri.Kiran Kumar & Another

// versus //

Defendants Sri.Dr.B.Lakshmana Gupta & Ors.

ORDERS ON I.A. NO. 21

The Defendant No.9 filed this application under Section 151 of CPC and prays to reopen the evidence of the Defendant No.9, in the interest of Justice.

2. In accompanying affidavit the defendant No.9 stated on oath that, after completion of the evidence of PW.1 and the cross-examination of the said witness, the defendant No.9 was examined as DW.1 and closed his evidence. The plaintiff also examined the PW.2 by filing the application for reopen the evidence. After examination of PW.2, the defendant No.9 has not got any opportunity to lead his rebuttal evidence. Hence this application.

3. Per contra, the Plaintiff has filed detailed objection and stated that, as per the direction of this court on allowing the I.A. No. 13 filed by the Defendant No.9, the Income Tax Department had produced IT records of plaintiff No.1 and his wife. When the case is posted for arguments, the Defendant No.9 filed I.A. NO. 15 and I.A. NO. 16 seeking recall and reopening of the case for further chief examination of DW.1. The DW.1 has examined Ex.D.64-Ex.D.94 were marked in his evidence. Thereafter, the cross-examination was completed by the plaintiff. The IT documents produced by the Defendant was not complete documents. Hence, the plaintiff has filed I,A. No's. 17 to 20 and marked the IT documents for the limited purpose of clarifying ambiguities in the IT records. The said recall application was allowed. The plaintiff has marked the document as Ex.P.19 to Ex.P.24 and the examination of Mr.

Avinash who is a auditor and maintained the IT documents. Hence, the plaintiff prays that there is no any merits on the application for reopen the evidence and prays to dismiss the application with exemplary costs under Section 35 (a) of CPC.

4. I have heard the arguments of the learned Advocates for both parties.

5. Based on the contentions of the respective parties, submissions made by the learned Advocates for both parties, I formulate the following Points for my consideration:-

1. Whether the defendant No.9 has made out grounds to allow the application under Section 151 of CPC for reopening the evidence of Defendant No.9 ?

2. What Order?

6. My findings are as follows:-

Point No. 1: - In the Negative.

Point No. 2: - As per my final orders for the following reasons.

REASONS

7. Point No. 1: - The Defendant No.9 filed this application for reopen the evidence of defendant No.9 in the interest of justice. The plaintiff has been examined as Pw.2 and marked Ex.P.19 to Ex.P.24. Therefore, the Defendant No.9 is required to rebut the evidence of the said documents along with evidence of PW.2.

8. I have carefully gone through the order passed by this court in I.A. No. 17 to 19, wherein this court has observed that the Defendant No.9 has called for the IT returns of the wife of the plaintiff pertaining to the years 2009-2010 to 2023-2024 from the IT departments. The said documents have been produced by IT department incompletely, and the same have been produced by the Defendant No.9. However, to file completed records of the IT department, the plaintiff has cross-examined PW.2 and relying the document as Ex.P.19 to Ex.P.24. With the said observation and marking the documents, the application was allowed with limited purpose. As observed by this court, the said documents were filed by the Defendant No.9. Therefore, there is no new facts were included. The plaintiff alone by relying the additional documents, documents that have been produced by the Defendant No.9 were incomplete.

Hence, the PW.2 was cross-examined by allowing I.A. No. 17 to 19 before that this defendant No.9 himself has reopen the evidence of DW.1 for further examination of DW.1 by reopen the same. However, at this stage the defendant No.9 has not made out any grounds, and it clearly reveals that this application was filed to drag the proceedings. Therefore, under all the circumstances, I am of the opinion that there is no merits in the application filed by the Defendant No.9. Hence, I answer this point in the **Negative.**

9. Point No.2 : Accordingly, I pass the following;

O R D E R

The I.A. No.21 filed by the Defendant no.9 under Section 151 of CPC is hereby dismissed with cost of Rs. 1000/-.

(Dictated to the Stenographer, typed by him directly on the computer, verified by me and pronounced in the open court on **18th day of June 2025**).

**(VIDYADHAR SHIRAHATTI),
LXXXII Addl.City Civil & Sessions Judge,
Bengaluru.**