

KABC170009142025



**IN THE COURT OF LXXXV ADDL. CITY CIVIL & SESSIONS  
JUDGE, AT BENGALURU (CCH-86) (Commercial Court)**

**THIS THE 21<sup>st</sup> DAY OF NOVEMBER 2025**

**PRESENT:  
SRI.ARJUN. S. MALLUR. B.A.L.LL.B.,  
LXXXV ADDL. CITY CIVIL & SESSIONS JUDGE,  
BENGALURU.**

**Com.OS.No.362/2025**

**PLAINTIFFS:**

**Sri. B H Basha,**  
Proprietor of,  
Bahar Enterprises  
101, Mamatha A Block,  
IV Main, Gandhinagar,  
Bangalore - 560009

Since Death represented by Lrs

**1(a). Smt. Parveen Taj,**  
W/o Late B.H.Basha,  
Aged about 67 years,

**1(b). Smt. Heena Kauser,**

D/o Late B.H.Basha,  
Aged about 42 years,

**1(c). Smt. Afsana Kauser,**  
W/o Late B.H.Basha,  
Aged about 38 years,

**1(d). Sri. Fahad Nawaz,**  
W/o Late B.H.Basha,  
Aged about 31 years,

All are R/at No.18, 13<sup>th</sup> Cross,  
Jayamahal extension,  
Bangalore North,  
Bangalore -560046.

**(Represented by Sri. D.S. Jayaraj, Advocate)**

**: Versus:**

**DEFENDANT:**

**Mallikarjuna Chitra Mandira**  
Nehru Road, Shimogga -577201  
Rep By Its Partners H R Shylesh And H R Swaroop

**(Represented by Sri.P N Harish Advocate)**

**IA.NO.V**

**Applicant/Plaintiffs: Bahar Enterprises**

(Represented by Sri. D.S. Jayaraj, Advocate)

**V/s**

**Opponent/Defendant: Mallikarjuna Chitra Mandira**

(Represented by Sri.P N Harish Advocate)

(i)	Provisions under which the application is filed	Under Sec.151 of CPC
(ii)	Relief sought for	Recalling the order dated 06.08.2025 and permit the plaintiff to file his statement of admissions and denials on the documents filed by the defendant.
(iii)	The date on which the application is filed	11.11.2025
(iv)	Number of the application	I.A.No.5
(v)	The date on which the objections are filed by different opponents	14.11.2025
(vi)	The date on which the orders were passed on the said application	21.11.2025

**ORDERS ON IA.NO.V**

The plaintiff has filed I.A.No.5 under Sec.151 of CPC for recalling the order dated 06.08.2025 and permit the

plaintiff to file his statement of admissions and denials on the documents filed by the defendant.

**2.** It is contended by the plaintiff that after defendant filed the written statement and raised the counter claim along with documents the sole proprietor of the plaintiff died and thereafter the legal heirs were brought on record. On account of the untimely death of the sole proprietor the legal heirs were not in a position to give suitable instructions for filing of the statement of admissions and denials and therefore the plaintiff now may be permitted to file his statement of admissions and denials and hence the application.

**3.** Objections are filed by the defendant contending that this Court has already scheduled the calendar of events to which the plaintiff has not adhered to and has deviated from it and previously sufficient opportunity was provided which the plaintiff did not make use of and there is no provision to condone the delay in not sticking to the schedule of events and that the legal heirs of the deceased proprietor who has sworn to the affidavit had complete knowledge of the documents that has been filed

by the defendant and that deliberately the plaintiff has not chosen to file the statement of admissions and denials and on these grounds sought for dismissing the application with exemplary costs.

**4.** Heard the learned counsels appearing for sides and perused the records.

**5.** The points for consideration are:-

- 1) Whether the plaintiff has made out justifiable grounds for permitting filling of admissions and denials at this stage?

**6.** My answer on the above point is **in the Affirmative** for the following:

### **REASONS**

**7.** The plaintiff has filed this suit for recovery of refund of the security deposit from the defendant with interest. Per contra the defendant has filed written statement and raised a counter claim for recovery of a certain amount from the plaintiff with interest. Issues have been framed

and when the case was plaintiff's evidence finally as a last chance present application is filed.

**8.** The proceedings of the order sheet would indicate that on 10.06.2025 the defendant filed written statement and counter claim with objections to I.A.No.1 accompanied with list and 5 documents. Thereafter the plaintiff has filed his written statement to the counter claim on 27.06.2025. As on the date when the defendant filed the written statement and counter claim and produced the documents the plaintiff was very much alive. The plaintiff has died on 19.09.2025 and the legal heirs have been brought on record on 10.10.2025. From 10.06.2025 till the date on which death of plaintiff was reported ample opportunity was there to file the statement of admissions and denials but why the same has not been filed is nowhere explained in the affidavit filed in support of the application.

**9.** This Court after framing of the issues vide order dated 03.11.2025 scheduled the calendar of events by following the case management hearing and the evidence of the plaintiff was posted on 10.11.2025 as a last chance. Cross

examination of plaintiff witness on 13.11.2025, evidence of defendant on 17.11.2025 and cross examination of defendant witness by 19.11.2025 and for arguments of both sides by 21.11.2025. Therefore as per the calendar of events by today evidence of both sides ought to have been completed and the case taken up for arguments of both sides on today. However the plaintiff has deviated from the case management hearing and on 12.11.2025 has filed this application.

**10.** The provisions of Order XV(A) provides for case management hearing as amended and applicable to commercial court suits and XV(A) Rule 6 lays down the powers of the Court in a case management hearing and Order XV(A) Rule 8 provides for consequences of non compliance of case management hearing. It empowers the Court either to condone non compliance by imposing costs to the Court or foreclose the parties right to his noncomplying with the order or even dismiss the plaint where the noncompliance is willful repeated and imposing of cost is not adequate to ensure compliance.

**11.** As already mentioned above nothing is forthcoming in the application why the statement of admissions and denials were not filed at the earlier stage. It is fact that the erstwhile plaintiff died and legal heirs on record and it is also a fact that there is non compliance of case management hearing. Therefore under such circumstances keeping in mind the rights of the parties to be determined and also to avoid any further multiplicity of proceedings, I deem just and proper to permit filing of statement of admissions and denials on the defendant documents without availing any further adjournment. In fact along with the application the statement of admissions and denials are also filed. As the plaintiff has breached the case management hearing he is liable to pay the cost. Hence, I answer the point raised in the **Affirmative** and pass the following:

**ORDER**

I.A.No.5 filed by the plaintiff Sec.151 of CPC is **allowed.**

The plaintiff is permitted to file statement of admissions and denials on the defendant documents and the affidavit of admissions and denials filed by the plaintiff

on the defendant documents along with application is taken on record.

As the plaintiff has failed to comply with the case management hearing as stipulated under Order XV(A) Rule 8(a) the plaintiff shall pay a cost of Rs.5,000/- to District Legal Services Authority Bengaluru and both parties shall strictly adhered to case management hearing to be fixed hereafter.

(Dictated to the Stenographer Grade-III, transcribed by her, corrected and then pronounced by me in open court on this the **21<sup>st</sup> day of November, 2025**)

**(ARJUN. S. MALLUR)**  
**LXXXV Addl.City Civil & Sessions Judge,**  
**Bengaluru.**