

KABC170012282021



**IN THE COURT OF LXXXIV ADDL. CITY CIVIL &  
SESSIONS JUDGE, AT BENGALURU (CCH-85)  
(Commercial Court)**

**THIS THE 13<sup>th</sup> DAY OF AUGUST 2025**

**PRESENT:**

**SRI. ANAND T. CHAVAN. B.Com.,LL.B.(Spl.)  
LXXXIV ADDL. CITY CIVIL & SESSIONS JUDGE,  
BENGALURU.**

**Com.O.S.No.25855/2017**

**Plaintiff:- M/s Gaurav Rose Real Estate Pvt. Ltd.**

A Company incorporated under the  
Companies Act, 1956  
Having its registered office at  
No.9/12, Lal Bazar Street,  
Merchantile Building,  
Block-E, 2<sup>nd</sup> floor, Kolkata-700 001.  
Rep. by its Authorized Signatory  
Rohan Agarwal

**(Rep by M/s AKS Law Associates -Advocate)**

**V/s**

**Defendants:- M/s Blue Horizon Hotels Pvt. Ltd.**

A company incorporated under the  
Companies Act, 1956,  
Having registered office at:  
No.172/1, Srinivas Industrial Estate,  
N.S.Palya, Bannerghatta Road,

Bengaluru-560076  
 Rep. by its Directors  
 A.C.Srinivas Raju and A.M.Ramaraju  
**and Others**

**(Rep By AK -Advocate)**

**PARTIES TO IA.Nos.XXII and XXIII**

**Applicant/** M/s Blue Horizon Hotels Pvt. Ltd.  
**Defendant No.1:**

**V/s**

**Opponent/** M/s Gaurav Rose Real Estate Pvt. Ltd.  
**Plaintiff:**

(i)	Provisions under which the application is filed	IA No.XXII- U/Sec. 151 of CPC IA No.XXIII- U/Or.XVIII Rule 17 R/w Sec.151 of CPC
(ii)	Relief sought for	For further cross examination of PW1 & to recall order dtd.31.10.2023 closing the cross-examination of PW1 by reopening the evidence of plaintiff.
(iii)	The date on which the application are filed	24.04.2025
(iv)	Number of the application	2
(v)	The date on which the objections are filed by different opponents	By Plaintiff on 29.04.2025
(vi)	The date on which the orders were passed on the said application.	13.08.2025

**ORDER ON IA Nos.XXII & XXIII**

The defendant No.1 has filed IA No.22 U/Sec.151 of CPC seeking to permit said defendant to further cross examine PW1.

Defendant No.1 has filed IA No.23 U/Or.XVIII Rule 17 R/w Sec.151 of CPC seeking to recall order dtd.31.10.2023 and to reopen evidence of plaintiff.

**2.** It is averred in affidavits of Director of defendant No.1 filed in support of above applications that, PW1 was examined and cross examined by defendant No.5. Defendant No.1 took no objection Vakalath from their previous counsel and engaged present advocate on 04.10.2023. Further said advocate also cross examined PW1 and same was concluded on 31.10.2023. Thereafter matter was posted for defendant's evidence. A company proceeding is pending before Hon'ble High Court with respect to very same claim and hence IA No.17 was filed by defendant No.1 to stay further proceedings of the case, which is pending for consideration. Thereafter case was adjourned from time to time and company petition is posted for final hearing before Hon'ble High Court of Karnataka. Further on 21.04.2025 while counsel for

defendant No.1 was going through the papers and discussing the matter with defendant No.1 to prepare evidence affidavit, he found that there was no cross-examination of PW1 on certain documents and said documents were not with their advocate. After closure of evidence of PW1, they came to know various aspects that would throw light on this case and defendant No.1 has not given instructions on certain important relevant issues to cross examine PW1. Hence further cross-examination of PW1 is necessary for full and final adjudication of the matter. Non cross-examination of PW1 on certain aspects were bonafide and unintentional one. These amongst other grounds, it is prayed to allow the applications.

**3.** The plaintiff has filed its common objections to above applications wherein it is averred that, after full cross-examination of PW1, the evidence of plaintiff was closed and matter was posted for defendant's evidence on 20.11.2023. Thereafter on 01.12.2023 defendant filed IA No.17 under Sec.10 of CPC seeking to stay the instant proceedings of the suit. Subsequent to filing of said application defendant sought adjournments on one or the other pretext. Thereafter this court partly allowed IA No.19 filed by plaintiff under Order XXXVIII

Rule 5 of CPC vide order dtd.30.01.2025 and directed defendant to deposit 1/5th of suit claim being Rs.67,83,63,777/-. Defendant challenged said order before Hon'ble High Court of Karnataka in WP No.4668/2025 and same was disposed off by modifying the said order and directing the parties to cooperate for speedy disposal of instant suit. In this background defendant No.1 once again has sought time to lead evidence 15.04.2025 and 24.04.2025 and now it has come up with present application without any cogent reasons. It is further averred that court should exercise provisions of Order XVIII Rule 17 sparingly and applications clearly show that no grounds are made out in support of the prayer. These amongst other grounds it is prayed to reject both applications.

4. The following points arise for consideration.

**1. Whether defendant No.1 has made out grounds for recall of PW1 for cross-examination, as prayed for in IA No.XXII?**

**2. Whether defendant No.1 has made out grounds for reopening plaintiff side evidence, as prayed for in IA No.XXIII?**

**3. What order?**

5. Heard arguments of both sides, perused entire records.

6. The followings are findings to above points.

***Point No.1 & 2:- In the Negative.***

***Point No.3:- As per final order  
for the following:***

**REASONS**

7. **Point Nos.1 and 2:-** These points are taken together for consideration in order to avoid repetition of facts. The plaintiff has initially filed present suit against defendant Nos.1 to 4 seeking relief of recovery of Rs.5 Crores borrowed by defendant No.1 company under Mortgage Deed dtd. 04.04.2014 executed by defendant No.4 along with interest at the rate of 24% pa., and it is further prayed to declare that Mortgage Deed dtd.28.05.2015 executed by defendant No.1 in favour of defendant Nos.2 and 3 as not binding upon plaintiff. It is further prayed that in the event of defendant Nos.1 and 4 failing to repay the above dues, to order for sale of plaint schedule properties belonging to defendant Nos.1 and 4 and to pay the plaintiff out of sale proceeds of such properties. Subsequently defendant Nos.5 and 6 have been impleaded in present suit as per order on IA No.4 dtd.05.03.2022 on specific ground that they being subsequent purchasers of

mortgaged property are necessary parties. Now the issues are framed, evidence of plaintiff is concluded and the matter is posted for evidence of defendant side. At this stage, defendant No.1 has come up with present applications seeking to reopen evidence of plaintiff and to recall PW1 for further cross-examination. However it is averred in above applications that there was no cross-examination of PW1 on certain documents which were not with his advocate and defendant No.1 had not given certain important instructions on relevant issues for cross-examination of PW1. However nothing specifically mentioned in applications as to which documents were not in custody of defendant No.1 and which issues were left out during cross-examination of PW1. It shows that the relief claimed in present applications is based upon vague grounds and as such without making out cogent reasons, PW1 cannot be recalled for further cross-examination by defendant No.1 side. Moreover as already stated above the evidence of plaintiff is closed on 31.10.2023 itself and the matter is nearly 8 years old. Further defendant No.1 has not denied and disputed the direction issued by Hon'ble High Court of Karnataka in WP No.4668/2025 directing both parties

to cooperate for speedy disposal of the suit and if the above applications are allowed, it will definitely amount to reopening of the evidence of plaintiff afresh and it will unnecessarily delay the trial of the suit. Hence grounds urged by defendant No.1 for reopening evidence of plaintiff and to recall PW1 are insufficient and as such the above applications deserve to be rejected. Hence, **Point Nos.1 and 2 are answered in the Negative.**

**8. Point No.3:-** For the reasons stated and findings given on point No.1 and 2, following is:

**ORDER**

**IA Nos.XXII and XXIII filed by defendant No.1 are hereby rejected.**

**No order as to costs.**

**Call on for evidence of defendants, as final chance by 22.08.2025.**

[Dictated to the Stenographer Grade-III, directly on the computer, typed by her, then corrected and signed by me and pronounced in the Open Court, dated **this the 13<sup>th</sup> day of August 2025**]

**(ANAND T. CHAVAN)**

LXXXIV Addl.City Civil & Sessions Judge,  
Bengaluru.