

KABC170012282021



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

THIS THE 5th DAY OF DECEMBER 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, 2nd floor, Kolkata-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 For D1, BSA- Adv for D2, VGB Adv for D3, PK Adv for D4, MK Adv for D5, MS Adv for D6)

PARTIES TO IA.Nos.27 to 30

Applicant/ M/s A.S Muniswamy Raju Hindu
Defendant No.4: Undivided Family.,

V/s

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

(i)	Provisions under which the applications are filed	IA No.27- U/Sec.151 of CPC IA No.28- U/Or.XVIII Rule 17 R/w Sec.151 of CPC. IA No.29-U/Sec.151 of CPC IA No.30-U/Sec.151 of CPC
(ii)	Reliefs sought for	IA No.27- To recall the order dtd.31.10.2023 closing the cross examination of PW1. IA No.28-To reopen the plaintiff side and permit him to cross examine the PW1. IA No.29- To permit the 4 th defendant to lead evidence. IA No.30- To recall the order dtd.04.09.2025 closing the

		evidence of 4 th defendant.
(iii)	The date on which the applications are filed	18.09.2025
(iv)	Number of the applications	04
(v)	The date on which the objections are filed by different opponents	Common Objections by Plaintiff on 14.10.2025
(vi)	The date on which the orders were passed on the said applications.	05.12.2025

ORDERS ON IA No.27 TO 30

The defendant No.4 has filed IA No.27 U/Sec.151 of CPC seeking to recall the order dtd.31.10.2023 closing the cross examination of PW1 and IA No.28 U/Or.XVIII Rule 17 R/w Sec.151 of CPC, seeking to reopen the evidence of plaintiff side and to permit the said defendant to cross examine the PW1.

Further defendant No.4 has filed IA No.29 U/Sec.151 of CPC seeking to permit said defendant to lead evidence and IA No.30 U/Sec.151 of CPC seeking to recall the order dtd.04.09.2025 closing the evidence of 4th defendant.

2. The gist of affidavits of Representative of defendant No.4 HUF filed in support of above applications are that, the above representative of

defendant No.4 is daughter of late A.M.Ramaraju and at the time of death of A.M Ramaraju, he has not informed said representative or his other children about pendency of this case. Hence she was totally ignorant about said case. About one month back, when she had been to the house of one Sachin Raju, one of Directors of defendant No.1 company, who is son of her uncle, some officials of plaintiff had come to his house and having bitter conversation. At that time, she came to know about this suit and prayer of plaintiff seeking payment of money from defendant Nos.1 and 4. On enquiry she came to know about present suit and till then she did not know about its pendency. On her request, Sachin Raju gave her copies of proceedings of this court on 10.09.2025 stating that he is taking care of defendant No.1 and he does not know, who is taking care of 4th defendant in said case. Hence the above representative being female heir of late A.M Ramaraju is coparcener by virtue of amended Hindu Succession Act. The male members of the family are deliberately not taking care and interest of above HUF and there is conflict of interest between defendant Nos.1 and 4. The male

members of family who are interested in defendant No.1 are deliberately not taking care of 4th defendant and in above circumstances defendant No.4 has not cross examined the witness of plaintiff. Further the above representative did not know as to which advocate was engaged by her father and with great difficulty she ascertained the advocate and requested for giving no objection to engage other counsel. Hence the above representative being family member of 4th defendant is interested in the results of present case and no male members are interested to contest the case. The absence of defendants on 31.10.2023 is bonafide and unintentional and as such it is prayed to permit the above representative to cross examine the PW1 by allowing IA No.27 and 28. These amongst other grounds, it is prayed to allow the above applications.

3. The plaintiff has filed common objections to above applications wherein it is averred that, the applications filed by defendant No.4 are not maintainable and same are liable to be dismissed. It is further averred that no application is filed under Order III Rule 2 CPC to represent defendant No.4

and entire averments of application are denied. It is further averred that grounds urged in above applications do not fall within realm of Sec.151 of CPC as well as under Order XVIII Rule 17 of CPC. The averments of application are mere statements of applicant on behalf of defendant No.4 and not factual grounds to allow the applications. It is further averred that defendant No.4 had been ignorant about the proceedings in instant suit over past six years and in Writ Petition No.4668/2025 filed by defendant No.1 the Hon'ble High Court of Karnataka has passed order dtd.22.03.2025, wherein it has directed the trial court to dispose off the suit as expeditiously possible and directed parties cooperate for speedy disposal of the case. It is further averred that Hon'ble Supreme Court has made it clear that Commercial Courts Act 2015 is introduced in order to expedite the litigation process and the courts need to enforce strict timelines and impose consequences for non compliance to resolve the dispute efficiently within reasonable time frame. These amongst other grounds it is prayed to reject the application.

4. The following points arise for consideration.

1. Whether defendant No.4 has made out grounds to recall order dtd.31.10.2023, to reopen evidence of plaintiff and to permit said defendant to cross examine PW1 as prayed for in IA No.27 and 28?

2. Whether defendant No.4 has made out grounds to recall order dtd.04.09.2025 to permit said defendant to lead evidence as prayed for in IA No.29 and 30?

3. What order?

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

6. The followings are findings to above points.

Point No.1:- In the Negative.

Point No.2:- In the Negative.

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

REASONS

7. Point Nos.1 and 2:- 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 and the matter is posted for evidence of defendants no.1 and 5. It further shows that the evidence of plaintiff is concluded on 31.10.2023 itself. On said date, PW1 is fully cross examined by counsel for defendant No.1 and there was no representation from defendant Nos.2 to 4. Hence this court by recording the absence of said defendants, has taken cross-examination of PW1 by defendant Nos.2 to 4 and 6 as nil. Further it has closed the evidence of plaintiff on same day and thereafter the matter is posted for evidence of defendants on 20.11.2023.

8. Thereafter it shows that the defendant No.1 has filed IA No.17 under Sec.10 of CPC, IA No.18 under Order VII Rule 11 CPC. IA No.18 is rejected by this court by order dtd.30.01.2025 and IA No.17 is also rejected by this court as per order dtd.02.07.2025. Thereafter IA No.22 and 23 filed by defendant No.1 seeking to further cross examine PW1 are also rejected by this court on 13.08.2025 and matter is posted for evidence of defendant No.1. On 04.09.2025 this court has rejected the prayer of defendant No.1 for leading evidence and it has also by recording the absence of the defendant Nos.2 to 5 on said date, has taken evidence of said defendants as nil. Thereafter defendant No.4 has come up with present applications on 18.09.2025 seeking to recall orders dtd.31.10.2023 and 04.09.2025 and to permit defendant No.4 to cross examine PW1 and to lead evidence in present case.

9. Admittedly the case is of 2017 and records disclose that except filing their written statement in present case through one A.M Ramaraju, who is said to be kartha of defendant No.4 HUF on 10.11.2017, absolutely there is no endeavor on part of said

defendant either to cross examine PW1 or to lead evidence for nearly 5 years. Most importantly, though the present representative of defendant No.4 is permitted to represent the said defendant as per order IA No.31 and though she asserts to be member of said HUF, absolutely no documents are produced by said defendant in order to show the death of previous representative A.M Ramaraju, details of his LRs and to disclose her inability to prosecute the suit efficiently. Hence grounds urged by above representative of defendant No.4 do not appear to be convincing to permit defendant No.4 to cross examine PW1 or to lead its evidence.

10. Counsel for plaintiff has relied upon following case law of Hon'ble Supreme Court and vehemently argued that when the Commercial Court has been enacted for speedy disposal of commercial disputes, the parties casually seek time and to recall orders as per their own convenience. The relevant portion of said order is culled out as under:-

(2023) 1 SCC 549 between Jaycee Housing Private Limited & Ors., V/s Registrar (General), Orissa High Court, Cuttack and Ors.,

22. That thereafter, the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 was passed by the Parliament, which has been subsequently renamed as Commercial Courts Act, 2015. The statements of Objects and Reasons of the said Act, inter alia, provides as under:

“The proposal to provide for speedy disposal of high value commercial disputes has been under consideration of the Government for quite some time. The high value commercial disputes involve complex facts and question of law. Therefore, there is a need to provide for an independent mechanism for their early resolution. Early resolution of commercial disputes shall create a positive image to the investor world about the independent and responsive Indian legal system.”

11. Moreover, the Hon’ble High Court of Karnataka has passed order in WP No.26232/2025 dtd.01.12.2025, wherein while permitting defendant No.1 to further cross examine PW1 as per order on IA No.22 and 23, the Hon’ble High Court of Karnataka has directed this court to decide the main suit within a period of four months from the date of receipt of copy of said order. Hence in view of aforesaid grounds, defendant No.4 is not entitled for relief claimed above applications and same are liable

to be rejected. Hence, **Point Nos.1 and 2 are answered in the Negative.**

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

ORDER

**IA No.27 to 30 filed by
defendant No.4 are hereby
rejected.**

No order as to costs.

[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 5th day of December 2025**]

(ANAND T. CHAVAN)

LXXXIV Addl.City Civil & Sessions Judge,
Bengaluru.