

KABC170017232023



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

**THIS THE 6<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.OS.No.840/2023**

**Plaintiff:-**

**B.V.S Manjula,**

W/o Mr. Gopi Bellumkonda,

Aged Major, R/at No.123,

16<sup>th</sup> 'A' Main Road, 4<sup>th</sup> Block,

Koramangala, Bengaluru-560 034.

Proprietrix of M/s Go Italia,

Rep by her POA

Mr. Gopi Bellumkonda,

**(Rep by Sri. Lokesh Anjanappa -Adv)**

V/s

**Defendant:-** **Blue Horizon Hotels Pvt. Ltd.,**  
 CIN No.U55101KA2007PTC041367,  
 A Pvt. Ltd., Company incorporated  
 under the provision of the  
 Companies Act, 1956, having its  
 Registered Office at No.#172/1,  
 Srinivasa Ind'l Estate, Bannerghatta  
 Road, Bengaluru-560 076.  
 Rep by its Director Mr. A V Nitin Raju/  
 Center Director (Vega City, B'lore),  
 Mr. Vaibhav More.

**(Rep by Sri. KPA -Adv)**

**PARTIES TO IA.NO.XIV**

**Applicant/** B.V.S. Manjula.  
**Plaintiff:**

**V/s**

**Respondent/** Blue Horizon Hotels Pvt. Ltd.,  
**Defendant:**

(i)	Provisions under which the application is filed	U/Or.XVIII Rule 17 R/w Sec.151 of CPC
(ii)	Relief sought for	Seeking permission to reopen evidence of plaintiff and to recall PW1 to adduce his further evidence.

(iii)	The date on which the application is filed	10.06.2025
(iv)	Number of the application	1
(v)	The date on which the objection is filed by opponents	By Defendants on 24.06.2025 and 31.07.2025
(vi)	The date on which the orders were passed on the said application	06.08.2025

**ORDER ON IA Nos.XIV, IA No.XV and Memo**  
**dtd.08.07.2025**

The plaintiff has filed IA No.XIV U/Or.XVIII Rule 17 R/w Sec.151 of CPC seeking to recall PW1 and to permit PW1 to adduce his further evidence/ additional documents in the present case.

The plaintiff has filed IA No.XV U/Sec,.151 of CPC seeking to recall order dtd.13.08.2024 and to reopen the stage from arguments to the stage of plaintiff evidence.

The plaintiff has filed Memo dtd.08.07.2025 seeking to rectify the date 22.04.2025 affidavit of IA No.XIV as 03.09.2024.

2. The gist of affidavits filed in support of IA Nos.XIV and XV and aforesaid memo are that, in support of case of plaintiff, its PA holder has adduced his evidence as PW1 and got marked various documents. However due to inadvertence and oversight, during his chief examination, original power of attorney enclosed to plaint along with IA No.1 has been left out from being marked as exhibit. The said fact was noticed during cross-examination of DW1 and on the other hand authority of PW1 to prosecute the suit or to lead evidence on behalf of plaintiff has not been questioned and challenged by defendant. Further defendant themselves categorically admit and confirm the personal participation of PA holder in entire transactions on behalf of his wife/ plaintiff. Further during cross-examination of PW1, it is questioned to him, if he could produce documents in support of his transactions and communication with defendant seeking their permission to take back the materials from the mall. Thereafter with conclusion of cross-

examination of DW1 on 22.04.2025, the case is posted for arguments. The above document is material for effective adjudication of the case. It is further averred in aforesaid Memo that, due to typographical error, the order sought to be recalled has been incorrectly mentioned as 22.04.2025 instead of 03.09.2024. Hence it is prayed to rectify the same in IA No.XIV. These amongst other grounds, it is prayed to allow both applications and aforesaid Memo.

**3.** The defendant has filed it's separate objections to aforesaid applications and Memo and gist of said objections are that, applications filed by plaintiff are not maintainable and same are liable to be rejected. Further after hearing both parties on IA No.IX and X filed by plaintiff for production of additional documents and to adduce further evidence to mark the documents, the said both applications are rejected by this court vide order dtd.03.09.2024. Now even after rejection of said applications in the year 2024, the plaintiff has once again filed present

vague and bald applications to dodge and delay the proceedings of the case and also to harass the defendant. Further IA No.XIV is filed as counter blast to IA No.XII filed by the defendant to delete evidence of PA holder of plaintiff, since he has no authority to conduct the case. The plaintiff is unnecessarily trying to twist the facts of the suit as per her own convenience. Further plaintiff slept over the matter, till the stage of the arguments and now she has come up with present applications, which is impermissible as per Commercial Court Act. It is further averred that the unrecognized alleged PA holder has been questioned and disputed by defendant side and said PA holder has played fraud and mischief before court by stepping into witness box, though court has not recognized him as an agent. He has conducted trial without bringing the same to the notice of the court. Hence plaintiff having suffered rejection of IA No.IX and X is not entitled for relief claimed in present applications. Further plaintiff has not even mentioned the date

which needs to be recalled and as per provisions of law, plaintiff has to file separate applications for recalling of order and to reopen the stage of plaintiff evidence. Further if applications are allowed, same will amount to res-judicata and order passed on IA No.IX and X will become completely illegal. It is further averred that contents of affidavits enclosed to application are false and misleading and plaintiff cannot be given advantage of correcting the dates after filing of objections by other side.

**4.** Further in objections filed in respect of Memo dtd.08.07.2025, it is averred that, the plaintiff is trying to rectify their mistakes which has been highlighted by defendant and the grounds urged in said Memo with regard to typographical error cannot be accepted and believed. Further no judicial order can be passed on a Memo and plaintiff cannot be given liberty to take the things for granted or changing the dates as per her whims and fancies. Further if Memo is accepted great prejudice, injustice hardship will be caused to defendant. These

amongst other grounds, it is prayed to reject above applications and Memo filed by plaintiff.

5. The following points arise for consideration:

**1. Whether plaintiff has made out grounds to allow IA No.XIV and XV and to accept Memo dtd.08.07.2025?**

**2. What order?**

6. Heard arguments of both sides. Perused records.

7. The following findings are on above points:

**Point No.1:- In the affirmative**

**Point No.2:- As per final order for following:-**

**REASONS**

8. **Point No.1:-** The plaintiff has filed present suit against defendant for recovery of Rs.9,76,400/- together with interest at the rate of 18% pa., from 19.03.2022 till the date of its full realization. Defendant has appeared and filed his written statement by taking various defences and it has

prayed for dismissal of the suit with exemplary costs. It is pertinent to note that, since beginning the plaintiff has been represented by her PA Holder i.e., PW1 Mr. Gopi Bellumkonda and IA No.1 is filed along with plaint U/Or.III Rule 2 CPC seeking permission to plaintiff to conduct the suit through her aforesaid PA Holder. Accordingly, it shows that, this court has allowed IA No.1 at very initial stage as per order dtd.26.07.2023 and permitted plaintiff to prosecute the suit through her aforesaid PA holder. Thereafter it shows that, issues have been framed on the basis of pleadings of both sides, aforesaid PA holder examined himself as PW1 and got marked documents in support of the case. It further shows that, representative of defendant has also examined himself as DW1, he got marked documents of defendant and aforesaid both witnesses have been subjected to cross-examination by other side. Now the case is posted for arguments on merits. At this stage, the counsel for plaintiff has come up with IA No.XIV and XV seeking to reopen the evidence of

plaintiff and to recall PW1 in order to get marked PA Deed executed by plaintiff in favour of PW1. Further though initially only IA No.XIV was filed for recalling PW1, in view of objections filed by defendant, plaintiff filed IA No.XV seeking to reopen the case for further evidence of plaintiff and to recall particular order of posting the matter to evidence of defendant. Further it shows that, aforesaid Memo is filed seeking to correct the date of recall from 22.04.2025 to 03.09.2024, i.e. the date of order passed by this court by rejecting IA No.IX and X.

**9.** The counsel for defendant has seriously objected the above applications and Memo on sole ground that, this court has already rejected IA No.IX and X for production of additional documents and for recall of PW1 for marking such additional documents by order dtd.03.09.2024 and as such the plaintiff cannot be allowed to seek the same relief by way of above applications. However as already stated above, the plaintiff has been permitted to conduct

the case through her PA holder at very initial stage by allowing IA No.1 and the original PA Deed enclosed with IA No.1 is deemed to have been taken on record by virtue of said order. Further IA No.IX and X were filed seeking to permission to file additional documents i.e., email communications and to mark said documents. However considering the objections of other side, this court rejected said applications by order dtd.03.09.2024. However present application is filed for the relief of further examination of PW1 only for the purpose of marking PA Deed enclosed with IA No.1 and not in respect of any other documents. Hence defendant cannot mix the reliefs claimed in both applications and as rightly argued by plaintiff's counsel, the recall of order dtd.03.09.2024 has to be considered strictly in respect of posting the stage for defendant's evidence, despite the evidence of plaintiff was not yet closed at that stage. Moreover, defendant themselves have filed IA No.XII and XIII seeking necessary orders by challenging the very authority of

PW1 to prosecute present suit and as such in order to enable plaintiff to prove authority of her PA holder to prosecute the suit, it appears necessary to permit PW1 to mark aforesaid PA deed. No hardship will be caused to other side, if IA No.XIV and XV are allowed. As far as rectification of date of recall is concerned, the Memo filed by plaintiff may be accepted by exercising power under Sec.151 of CPC in order to treat the date of order to be recalled as 03.09.2024 instead of wrongly mentioned date 22.04.2024. Hence sufficient grounds are made out by plaintiff to allow the above applications and to accept Memo dtd.08.07.2025. Hence, **Point No.1 is answered in the affirmative.**

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

**ORDER**

***Memo dtd.08.07.2025 filed by plaintiff is accepted. The date of recall mentioned in IA No.XIV as 22.04.2025 shall be treated as 03.09.2024.***

***IA No.XIV and XV filed by plaintiff are also hereby allowed.***

***Consequently, the case is reopened for further evidence of plaintiff and PW1 is recalled for further chief examination for the purpose of marking PA Deed produced along with IA No.1.***

***Call on for further chief examination of PW1 by 12.08.2025.***

[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 6<sup>th</sup> day of August 2025**]

**(ANAND T. CHAVAN)**

LXXXIV Addl.City Civil & Sessions Judge,  
Bengaluru.