

**WITNESS CALLED AND DULY SWORN ON 15.02.2024.****FURTHER CROSS EXAMINATION BY SRI.L.D., ADVOCATE FOR THE DEFENDANT:-**

12. Advocate for defendant confronted the W/S filed in A.C.No.135/2015. Witness admitted the W/S. Since the witness admitted the documents, it is marked as **Ex.D.5**. It is true to suggest that, counter claim filed in A.C.No.135/2015 at Ex.D.5 is related to MOU dtd.08.08.2008 at Ex.P.2 and MOU dtd.09.09.2009 at Ex.P.3.

**Question:** This suit is based on transaction arising out of Ex.P.2 and Ex.P.3 ?

**Answer:** This suit is based on transaction arising out of Ex.P.2, 3 and also on the basis of other MOU dtd.05.04.2010 and MOU of 28<sup>th</sup> March, may be 2012.

13. MOU dtd.05.04.2010 was terminated at the instance of contractor. It is false to suggest that, MOU dtd.28.03.2012 is not in existence, so I have not produced before this court and my pleadings are not based on MOU dtd.28.03.2012. It is false to suggest that, document dtd.28.03.2012 is not MOU, it is termination of MOU dtd.05.04.2010.

14. It is false to suggest that, though the actual price was not fixed for entire extent of 33 acres 11 guntas of land, for the purpose of taxation, We have created one document i.e. dtd.05.04.2010, hence same was terminated as per Ex.P.5.

**Question:** The relief claimed in this suit and relief under the counter claim filed in A.C.No.135/2015 are one and same ?

**Answer:** The claim is same, but the amount is not same.

In the present suit, we have claimed amount less than the counterclaim amount. It is false to suggest that, amount claimed in this suit are baseless and I do not have any right to claim the said amount.

15. It is true to suggest that, after compromise in A.C.No.135/2015, I have filed suit before the Prl.Civil Judge Court, Magadi in O.S.No.144/2017. Witness volunteers since the defendant has not complied the award of A.C.No.135/2015, so I have filed the suit O.S.No.144/2017. It is true to suggest that, there is no clause in compromise petition at Ex.P.13, when the terms of compromise were not complied, then both parties can approach the civil court. It is true to suggest that, as per the terms of the compromise petition at Ex.P.13, Arbitral Award was passed. It is true to suggest that, O.S.No.144/2017 is bare injunction suit for restraining the defendants from interfering with plaintiff's property. It is true to suggest that, I have also filed M.A.No.8/2017 against the order passed on I.A.No.1 in O.S.No.144/2017.

**Question:** After obtaining the injunction order in M.A.No.8/2017, you have not allowed the defendant to enter the schedule properties in O.S.No.144/2017 ?

**Answer:** The defendant voluntarily not entered into the schedule property in O.S.No.144/2017.

16. It is true to suggest that, I have filed W.P.No.58096/2016 before the Hon'ble High Court of Karnataka for seeking the direction against the police as not to interfere with affairs of plaintiff and defendant. It is true to suggest that, against the order in M.A.No.8/2017, the defendant has filed appeal in W.P.no.50650/2018.

**Question:** In the said W.P.no.50650/2018, you have made a submission before the Hon'ble High Court of Karnataka that, in view of the orders in M.A.No.8/2017, you have taken possession of schedule property, hence writ become infructuous ?

**Answer:** I need to verify the documents.

I do not know, the W.P.no.50650/2018 not disposed off on merit.

17. We have collected the amount from the members of the society for execution of alleged work. Till today the members of the society are not filed any case against the society for non completion of formation of entire layout. Witness volunteers they may file in future. It is true to suggest that, we have developed the layout out of funds collected from the members, the society personally not spent any amount towards payments of formation of layout after passing the award in Arbitration case.

**FURTHER CROSS EXAMINATION: DEFERRED AT THE REQUEST OF ADVOCATE FOR DEFENDANT.**

(Typed to my dictation in open court.)

R.O.I & A.C.,

(SUMANGALA S. BASAVANNOUR)

LXXXII ADDL. CITY CIVIL & SESSIONS JUDGE,  
BENGALURU.