

KACM200001932017



IN THE COURT OF SENIOR CIVIL JUDGE,
AT: KADUR

Present:- Sri. IRFAN.

B.A., LL.B.,

Senior Civil Judge & JMFC,
Kadur, Chikkamagaluru District.

Dated: this the 23rd day of February – 2026.

O.S.No.17/2017

Plaintiff: : Sri. E. Jayanna.

[By: Sri. M.O.J., Advocate]

V/s

Defendants: : Sri. Channakeshava R & others.

[Defendant No.1 by: Sri. S.N.G. Advocate]

[Defendants No.2 to 4 by: Sri. B.M., Advocate]



RANK OF THE PARTIES ON I.A.NO.13 & 14.

Applicant/
4th defendant : Sri. B.C. Hemaprasad.

V/s

Opponent/
Plaintiff : Sri. E Jayanna.

i	<i>Provision under which the applications are filed</i>	<i>U/O 18 Rule 17 R/w Sec.151 of CPC. U/S 151 of CPC.</i>
ii	<i>Relief sought for</i>	<i>Reopen the stage by recalling the witness by name Sri. C.S. Nagaraj and to permit adduce his further evidence.</i>
iii	<i>The date on which the application is filed</i>	<i>19.01.2026.</i>
iv	<i>Number of the applications</i>	<i>13 & 14</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>20.01.2026.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>23.02.2026.</i>

When the case is posted for arguments, the 4th defendant has filed these applications.

ORDERS ON I.A.13 and 14.

These IAs filed by the 4th defendant, U/o 18 Rule 17 R/w Sec.151 of CPC and U/S 151 of CPC seeking to



re-open the stage by recalling the witness by name Sri. C.S. Nagaraj and also permit him to adduce further evidence, in the interest of justice and equity.

2. These applications are supported by separate affidavits filed by the 4th defendant. The gist of the applications averments are that on the last date of hearing he could not file witness list for unavoidable circumstances. He is ready to adduce his further evidence and hence, it is just and necessary to permit him to adduce further evidence. If the applications are not allowed then he will be put to loss and injury. Accordingly, sought to allow these applications.

3. The plaintiff resisted the said applications by contending that the applications filed by the 4th defendant is not maintainable either in law or on facts and same is liable to be dismissed. The defendants have sworn to false affidavit by suppressing the material facts. The said case is posted for arguments, at this stage such applications are not maintainable and same are liable to be rejected. On the last date of hearing, the defendants have filed the similar applications for recall and reopen the case on his side



and the said applications have been allowed on costs, but the defendants have not come forward to adduce further evidence, but now the defendants have filed the very same application by suppressing the above facts, hence, the applications itself are not maintainable and same is liable to be dismissed. The defendants have filed these applications only to delay and to drag on the proceedings. Accordingly, sought to dismiss the applications.

4. Heard both side. Perused the case records.

5. The following points that arise for consideration are;

1. Whether the 4th defendant has made out grounds to reopen the case to recall the witness by name Sri. C.S. Nagaraj and also to permit him to adduce further evidence?

2. What order?

6. Answers to the above points are as under;

Point No.1 : In the Affirmative;



Point No.2 : As per final order
for the following;

REASONS

7. **Point No.1 :-** The present suit is filed for the relief of specific performance of contract based on the sale agreement dated 16.12.2013. It is a matter of record that before filing these applications, the similar applications were allowed by this court permitting the defendants to lead further evidence by examining the witness mentioned therein, but despite of good numbers of opportunities, the defendants have failed to lead further evidence, which resulted in culmination of trial and the matter was posted for arguments on merits. Soon thereafter, the defendants have come up with these applications seeking for reopening the stage in order to permit them to examine the witness mentioned under this application. No doubt, there is substantial delay caused by the defendants, but in consideration of the fact that this court being the trial court, an opportunity shall be extended to the defendants to examine the witness by suitably compensating the plaintiff for the delay caused. If the permission is denied, the defendants



No.2 to 4 will be put into irreparable loss and injury, which also amounts to deprivation of their rights to lead evidence to substantiate to their contention. Of-course, the delay caused can be compensated in terms of money. Accordingly, **the point No.1 under consideration is answered in the Affirmative.**

8. **Point No.2** :- In view of the discussion in the foregoing point, the following;

ORDER

I.A.No.13 and 14 filed by the 4th defendant, U/O 18 Rule 17 R/w Sec.151 of CPC and U/S 151 of CPC are allowed with costs of Rs.2,000/-.

Stage is reopened.

The defendant No.4 is permitted to examine the witness, as sought.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 23rd day of February, 2026) **Sd/-**

(IRFAN)
Senior Civil Judge,
Kadur.