

KACM200005462016



**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 30<sup>th</sup> September - 2024

**O.S.No.41/2016**

Plaintiffs:- Sri. Vijayakumar & others.

(By: Sri. DC, Advocate)

V/s

Defendants:- Sri. R.K. Vinayababu & others.

(Defendant No.1 by : Sri. KSR, Advocate)

(Defendants No.2 to 4 by : Sri. KVM, Advocate)

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

Applicant/  
1<sup>st</sup> defendant : Sri. R.K. Vinaybabu.

V/s

Opponent/  
plaintiff : Sri. Vijayakumar & others.

<i>i</i>	<i>Provision under which the application is filed</i>	<i>U/O 18 Rule 17 R/w Sec.151 of CPC and U/O 8 Rule I(a) R/w Sec.151 of CPC</i>
<i>ii</i>	<i>Relief sought for</i>	<i>Recall the defendant and permit him to produce enlisted documents.</i>
<i>iii</i>	<i>The date on which the application is filed</i>	<i>06.08.2024</i>
<i>iv</i>	<i>Number of the application</i>	<i>13 &amp; 14</i>
<i>v</i>	<i>The date on which the objections are filed by different opponent</i>	<i>28.08.20204</i>
<i>vi</i>	<i>The date on which the orders were passed on the said application</i>	<i>30.09.2024</i>

**COMMON ORDERS ON I.A.13 & 14.**

The applicant / 1<sup>st</sup> defendant has filed I.A.No.13 and 14, under Order 18 Rule 17 R/w Sec.151 of CPC and U/O VIII Rule I(a) R/w Sec.151 of CPC seeking to re-open the stage by recalling DW-1 for the production of enlisted documents by condoning the delay, in the interest of justice and equity.

2. These applications are supported by an affidavit filed by the 1<sup>st</sup> defendant. The gist of the applications averments is that due to inconvenience and inadvertence, he could not produce the enlisted documents because those documents are misplaced in his house and recently he traced-out the same and hence those documents are very much essential to

establish his specific defence. Accordingly, sought to allow the applications.

3. The plaintiff has filed objections, wherein it is specifically asserted that the 1<sup>st</sup> defendant is indulged in dragging the proceedings and the documents sought to be produced are not pertaining to the suit schedule property and same would not be helpful in disposing the matter in controversy between the parties. The documents sought to be produced are created and concocted documents and accordingly, sought to dismiss the application.

4. Heard learned counsel for the 1<sup>st</sup> defendant and plaintiff.

5. The points arise for my consideration is as follows;

*1. Whether the applicant / 1<sup>st</sup> defendant has made out grounds to reopen the case by recalling DW-1 for further examination and also to produce the enlisted documents, as sought?*

2. What order?

6. My answer on the above points are as follows:-

Point No.1 - In the Negative;

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

**REASONS**

7. **Point No.1:** The plaintiffs have instituted this suit for the relief of specific performance of contract based on the sale agreement dated 10.07.2013, wherein the 1<sup>st</sup> defendant in his written statement has denied the very execution of the same and it has been specifically asserted that he along with his father L.C. Ravindrakumar have executed a registered sale deed dated 08.02.2016 and put the purchasers i.e., defendants No.2 to 4 in possession over the same. On reference to the written statement, there is nothing whatsoever averred regarding the documents, which are sought to be produced under this application. More so, there is nothing whatsoever is disclosed in the annexed affidavits filed to the IA's regarding the relevancy of these documents with respect to the suit on hand. On reference to the documents, it is noticed that those documents are unconnected to the suit on hand and they may not be necessary for the disposal of the suit on merits. Thus, in consideration of the same the 1<sup>st</sup> defendant has not made out any grounds for reopening the stage and recalling DW-1 for the production of

enlisted documents in evidence. Accordingly, the point under consideration is answered in the Negative.

8. Point No.2: In view of the above findings on point No.1, the following;

**ORDER**

I.A.No.13 and 14 filed by the applicant / 1<sup>st</sup> defendant, under Order 18 Rule 17 R/w Sec.151 of CPC and U/O VIII Rule I(a) R/w Sec.151 of CPC are dismissed with costs of Rs.500/-.

*(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 30<sup>th</sup> day of September, 2024)*

Sd/-

(IRFAN)  
Senior Civil Judge,  
Kadur.