

KACM510001832022



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C. AT N.R.PURA, ITINERATE AT KOPPA**

Present: Sri Raghunatha Gowda K.T., B.Com.,L.L.B,
Senior Civil Judge & J.M.F.C., N.R.Pura, Itinerate at Koppa

Dated this the 14th day of August, 2025

O.S. No.09/2022

Plaintiff : Dr.Nataraj.R.Rao,
S/o. Late.K.Ramesh Rao,
Aged about 53 years,
R/at. Adarsha Hospital,
Ambedkar Road, Koppa Taluk,
Chikkamagalur.

(By Sri. B.K.V., Advocate)

-V/s-

Defendant : Sri. Sachin Meega,
S/o. Meega Chandrashekar,
Agriculturist,
Aged about 48 years,
R/at. Meega House, T.M.Road,
Koppa Town, Koppa Taluk,
Chikkamagaluru dist

(By Sri. M.H.N/S.P.D., Advocate)

**I.A.No.XIX**

Applicant/ Plaintiff : Sri. Sachin Meega,
V/s

Opponent / Defendant: Dr.Nataraj.R.Rao,

ORDER ON I.A.No.XIX FILED BY DEFENDANT UNDER SECTION 138 OF INDIAN EVIDENCE ACT, 1872

When the matter posted for further defendant evidence at this stage, the defendant counsel filed this application U/sec.138 of Indian Evidence Act to rectify/correction in the deposition of Dw1.

2. In support of this application defendant filed his affidavit, he contended that on 03.07.2025 he was cross examined by the plaintiff counsel, during the course of cross examination in Para No.6, I was asked the following question by the plaintiff counsel that you have entered into a purchase agreement with the plaintiff and received an advance amount of Rs.15,00,000/- and a written deed of agreement like a Nipi to which I clearly responded “No” during the course of my oral testimony, upon



reviewing the title cross examination transcript provided to me in pdf form I noticed that my response to the above question has been mistakenly recorded as “Yes” the said recording is factual incorrect and a typographical or clerical error and the rectification is very much necessary. Hence, he prays to allow this application.

3. Per contra, plaintiff counsel filed objection to said application contended that the application filed by the defendant is not maintainable either in law or facts. Further he contended that defendant after understanding the question voluntarily answered “Yes” in the open court in the presence of advocates on both side and court staff. Further after read over the deposition the defendant put his signature in the open court at that time without rising any objection now filed this application.

4. Further he contended that the application is a clear after thought and the attempt to resile from he deliberate and conscious admission made by the defendant. Further he contended that the correction is



made would set a dangerous precedent. Further he contended that the defendant is well educated and legally aware family back ground and cannot be presumed to be an innocent or unaware litigant. Hence, he prays to reject the said application.

5. Heard the arguments on both side.

6. The following points would arise for my consideration.

1. Whether defendant has made out sufficient ground to allow the said application?
2. What order?

7. My answer to above said points as under:

Point No.1: In the negative.

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



REASONS

8. On careful perusal of the record, plaintiff filed this suit against defendant for relief of specific performance of contract and alternatively for refund of earnest amount with interest. Now the defendant filed this application to correct the deposition of Dw1 at Para No.6, Dw1 deposed you have entered into a purchase agreement with the plaintiff and received an advance amount of Rs.15,00,000/- and a written deed of agreement like a Nipi to which I clearly responded “No” during the course of my oral testimony, but while typing the said it was mentioned “Yes” the said mistake can be seeking for rectification.

9. On careful perusal of the cross examination of Dw1 at Para No.6 page No.17 onwards Dw1 admitted that at the time of entering to sale agreement he received advance sale consideration amount of Rs.15,00,000/- by executing the Ex. P1 is admitted but at now he seeking that he has not admitted the execution of agreement of



sale but due to typographical error it was mentioned “Yes” instead of “No”. On perusal of entire deposition of Dw1, the learned counsel for plaintiff put the question to Dw1 and same was recorded by this court and what was the answer stated by the Dw1 same was dictated to the Typist and same was typed by the Typist in the presence of both the counsels and witness in open court. Now the defendant filed this application to withdraw the admission. Further, while considering the evidence this court looking into the entire evidence of Dw1 and mere stray admission cannot be considered. Hence, there is no due to typographical error in the deposition of Dw1 and what was the say of Dw1 before the court same was typed. Hence, for the above said reason my answer to **Point No.1: In negative.**

10. **Point No.2:** In view of forgoing reason of Point No.1. I pass the following:

ORDER

I.A. No.XIX filed by the
defendant counsel U/sec.138 of



Indian Evidence Act is hereby
rejected.

No order for cost.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in open court on this **14th day of August 2025**).

Sd/-

(Raghunatha Gowda K.T.)
Senior Civil Judge & J.M.F.C.,
N.R.Pura, Itinerate at Koppa.