

KACM710017972015



**IN THE COURT OF THE I ADDITIONAL CIVIL JUDGE AND
J.M.F.C., AT TARIKERE**

Present: Smt.Urmila.V. B.A.L., LL.B.,
I Addl. Civil Judge & JMFC, Tarikere.

Dated : 25th Day of March 2026

ORIGINAL SUIT NO.314/2015

PLAINTIFF/s :

G.D.Nanjegowda S/o late Devegowda,
aged 38 years, Agriculturist, R/o
Bambusara Village, Lakkavalli Hobli,
Tarikere Taluk.

(Reptd. By : Sri T.L.Prakash, Advocate.)

Vs.

DEFENDANT/s:

1) H.G.Shivannagowda S/o late
Gangahonnaiah, aged 49 years,
Agriculturist, R/o T.M.Road,
Rangenahalli Village, Lakkavalli
Hobli, Tarikere Taluk.

2) Chariyan S/o P.C.Mathew, aged 59
years, Agriculturist, R/o
Indiranagara, Vaddaradibba Village,
Lakkavalli Hobli, Tarikere Taluk.

(D.1 : By Sri K.N.Vasanthakumar, Advocate.
D.2 : By Sri B.P.Rajashekhar, Advocate.)

KACM710017972015



PARTIES TO I.A.NO.XX & XXI

Applicant/s : Nanjegowda

Vs.

Opponent/s : Shivannagowda and another

i	Provision under which the application is filed	I.A.No.20 – u/s 151 CPC I.A.No.21 – Under Order 16 Rule 1 and 2 r/w Section 151 of CPC
ii	Relief sought for	To reopen the case and produce witness list
iii	The date of which the application is filed	09.01.2026
iv	Number of application	I.A.No.20 & 21
v	The date on which the objection are filed by different opponents	06.02.2026
vi	The date on which the orders were passed on the said application	25.03.2026

COMMON ORDER ON I.A.NO.XX & XXI

The applicant has filed these I.As., when the matter is set down for arguments on merits.

KACM710017972015



2. The applicant/plaintiff has filed I.A.No.20 u/s 151 of CPC and prays to reopen the case of the plaintiff for further evidence of plaintiff and I.A.No.21 under Order XVI Rule 1 and 2 r/w Section 151 of CPC and prays to permit him to produce the witness list as per the list annexed to the application, as sought in the I.A.

3. The above I.As., are supported with the affidavits of plaintiff/applicant. The plaintiff has stated in the affidavits that, he has filed the present suit seeking the relief of specific performance of the agreement of sale dated 27.01.2009 against the defendants. Due to inadvertence and oversight, he has not filed the witness list well in time and delay in filing the list of witness is bonafide one and unintentional. The evidence of witnesses are very necessary to prove my case and as such, it is just and necessary to re-open the case of the plaintiff for further evidence of plaintiff by allowing this application. It is further stated that if these applications are not allowed and permission is not accorded to file my witness list, he will be put to great hardship and irreparable loss and no hardship would be caused to the other side. Hence, these I.As.

4. The copy of the I.As., served to the other side. The defendant No.1 has filed detailed objections and inter alia

KACM710017972015



contended that, the I.As., are absolutely not maintainable either in law or on facts and deserves to be dismissed in limine. The plaintiff has filed the above suit for specific performance of contract against the defendants and the case is posted for final arguments and now the plaintiff wants to reopen the above case from the stage of arguments to lead further evidence and for filing of witness list is only to fill up the latches of plaintiffs evidence and the plaintiff has created some new witnesses to overcome the latches given by the plaintiff in his cross examination. The witnesses are created one witnesses and the witnesses list should be filed at the preliminary stage when the issues are framed and hence, the applications are very belated one. It is further contended that some of the names shown in the witness list are no where concerned to the agreement and the plaintiff has not given the proper reasons in his affidavit to permit him to file the witness list and for reopen the above case and I.As., are filed only to protract the proceedings. The plaintiff has to establish his case through his documents as well as eliciting the truth by him only and not from the created witnesses. There is no prima-facie case made out by the plaintiff in his pleadings in the fag-end of the trial, there is no necessity to consider list of witness. For all these grounds, the defendant No.1 prays for to reject the I.As., with heavy cost.

KACM710017972015



5. Heard arguments on both sides.

6. On perusal of the rival contentions and other materials placed on record, the following points that would arise for my consideration are :

- 1) Whether the I.A.No.XX and XXI filed by the plaintiff/applicant are deserves to be allowed?
- 2) What order?

7. My findings on the above points are as follows :

Point No.1 : In the Affirmative,

Point No.2 : As per the Order,

for the following:

REASONS

8. **POINT NO.1** : On perusal of the materials available on record, admittedly the plaintiff has filed present suit against the defendant for the relief of permanent injunction in respect of suit schedule property. When the matter is set down for further evidence of defendant, at this stage, the plaintiff/applicant has moved this I.A., and sought for to issue summons to the witness stated in the I.A.

9. It is the urge of the plaintiff that, the evidence of witnesses are very necessary to prove my case and as such, it

KACM710017972015



is just and necessary to re-open the case of the plaintiff for further evidence of plaintiff by allowing this application and if these applications are not allowed, he will be put to great hardship and irreparable loss.

10. On the other hand, the defendant No.1 has contended in his objections that, the plaintiff wants to reopen the above case from the stage of arguments to lead further evidence and for filing of witness list is only to fill up the latches of plaintiff's evidence and the plaintiff has created some new witnesses to overcome the latches given by the plaintiff in his cross examination and the applications are very belated one.

11. On perusal of the materials available on record, it discloses that, the plaintiff has filed the present suit seeking the relief of specific performance of contract and the witnesses mentioned in the instant I.As., are none other than the witnesses of said unregistered agreement of sale dated 27.01.2009. It is to be noted that these witnesses are very much necessary to establish the authenticity, validity and voluntary nature of a contract to prove the documents execution. Hence, opinion of this court is that, the said witnesses are necessary for proper adjudication of the matter. If one more opportunity has to be given to the plaintiff by

KACM710017972015



imposing cost, it will suffice the ends of justice. If the plaintiff examined the said witnesses on behalf of his side, certainly the counsel for the defendants will get an opportunity to cross examine the said witnesses. If these applications are allowed, there is no harm caused to the other side. For considering all these reasons, I answer Point No.1 in the Affirmative.

12. **POINT NO.2** : In view of my findings on Point No.1, I proceed to pass the following :

ORDER

I.A.No.XX filed u/s 151 of CPC and XXI filed under Order XVI Rule 1 and 2 r/w Section 151 of CPC by the plaintiff are hereby allowed on cost of Rs.500/-.

The case is reopened for further evidence of plaintiff.

Issue summons to the witnesses if P.F. paid.

(Dictated to the Stenographer directly on computer, computerized by her, corrected by me and then pronounced in the open Court, on this the 25th day of March 2026.)

sd/-
(**URMILA.V**)
I ADDL. CIVIL JUDGE AND
J.M.F.C, TARIKERE.