

**ORDERS ON I.A. DATED 21.02.2023**

**Stage :- Plaintiff evidence**

Heard.

Vide I.A under order 14 Rule 5 r/w Sec.151 of CPC., the Plaintiffs prayed to strike out Issue Nos.1 and 2 framed on 02.02.2023. In support of the application, one of the Advocate for Plaintiffs filed Memorandum of Fact and contended some of the Issues framed on facts that are already admitted by the Defendants and they do not arise for consideration. The learned Advocate for the Plaintiffs referred to the relevant portion of the written statement and contended in view of the admitted facts, there is no necessity of Issue Nos.1 and 2 and the same are to be strike out. Hence, prayed to allow the application.

The Defendant No.2 filed a detailed objection and contended the application to strike out Issue Nos.1 and 2 is not maintainable and liable to be rejected. It is the objection, he has admitted the MOU dated 11.06.2014 and contended under what circumstances the said MOU came into existence is mentioned in the written statement, accordingly contended he has not admitted the contents of the MOU in the written statement. It is also the objection admitting the Agreement of Sale

dated 18.08.2016 registered on 19.08.2016 and contended under what circumstances the Agreement of Sale came into existence is mentioned in the written statement, hence, the Court has framed proper Issues and for the said reasons prayed to reject the application.

On consideration of the materials available on record, the Plaintiffs have filed the suit for recovery of Rs.2,67,73,000/- and to pay 18% interest p.a., on Rs.1,60,00,000/- from the date of suit till the date of realisation and to direct the Defendants to pay Rs.50,00,000/- as damages for the loss caused to them.

The Defendants have filed a detailed written statement and as per the defence prayed to dismiss the suit. By considering the available pleadings that on 02.02.2023, my learned Predecessor has framed the Issues. By referring to the defence, vide application under consideration the Plaintiffs prayed to strike out Issue Nos.1 and 2 as the Defendants have admitted the MOU dated 11.06.2014 and Agreement of Sale dated 18.08.2016 registered on 19.08.2016.

It is the very contention of the Defendants, the circumstances under which led to enter into MOU dated 11.06.2014 and Agreement of Sale dated 18.08.2016. In view of the available pleadings, this Court is of the opinion to strike out Issue

Nos.1 and 2 and to frame Additional Issues casting the burden on the Defendants. In that event either of the parties will not be put to any injustice. With this observation, I proceed to pass the following:-

**ORDER**

The I.A dated 21.02.2023 filed by the Plaintiffs under Order 14 Rule 5 r/w Sec.151 of CPC., is hereby ALLOWED.

Issue Nos.1 and 2 framed on 02.02.2023 are struck down and Additional Issues framed separately.

II Addl. District & Sessions Judge,  
Mysuru.

**Additional Issues framed on 16.12.2023**

1. Whether the Defendants prove the circumstances that led them to enter into MOU dated 11.06.2014?
2. Whether the Defendants prove the circumstances that led them to execute the Regd., Agreement of Sale dated 19.08.2016 ?

II Addl. District & Sessions Judge,  
Mysuru.