

KAMS200008452016



**THE COURT OF THE SENIOR CIVIL JUDGE AND
J.M.F.C., H.D.KOTE**

Present: Mahesh.B.T., B.Com., LL.M.,
Senior Civil Judge & J.M.F.C.,
H.D.Kote.

O.S. No.8/2018

Dated : On this the 12th February, 2026

Plaintiff/s : Nagaraju.K.L

V/s

Defendants: Subramanya.N.G.

ORDER ON I.A.Nos.XIX & XX

Applicants/Defendants : Nagaraju.K.L
--- Defendant No.1

-V/s-

Opponents/Plaintiff : Subramanya.N.G.
--- Plaintiff

**COMMON ORDERS ON I.As.19 and 20 FILED BY
THE DEFENDANT No.1 U/S 151 OF CPC AND
U/O 18 RULE 17 OF CPC**

The counsel for defendant No.1 has filed two I.As U/s 151 of CPC and U/o 18 Rule 17 of CPC praying to reopen and recall the order to cross-examination of PW1, in the interest of justice and equity.

2. As these two applications are interconnected, the Court wishes to treat them collectively to avoid repetition of the orders.

3. In both the accompanied affidavits, the defendant No.1 deposed that, the plaintiff has filed the suit for specific performance of contract against the defendants. It is stated that, he has filed the application the plaintiff has filed the application under Order 6 Rule 17 of C.P.C for seeking amendment of plaint. This court was pleased to allowed the same on previous hearing date. Hence it is just necessary to cross the PWI on the above said application and the defendant No.1 recently obtained some documents relating to the plaintiff regarding the disprove the case, hence in this matter also very much necessary to cross the plaintiff. Hence this

application Re-open the case. hence in order to consider the same, it is just and necessary to recall the PW1 in the above case. If this accompanying application is not allowed he would be put irreparable loss and inconvenience, on the other hand no hardship or loss caused to the other side if this accompanying application is allowed. Hence, he is prayed to allow the application.

4. The plaintiff has filed objection to the applications is that, the application filed by the defendant No.1 is not maintainable either in law or on facts, the plaintiff has filed the above suit against the defendants for relief of specific performance of contract. Defendant No.1 recently obtained the documents relating to the plaintiff regarding the disprove the case. If the defendant obtained some documents to disprove the case of the plaintiff, the defendant No.1 ought to have produce the documents along with application. He has filed an application under 6 rule 17 of C.P.C for amending the prayer column only. Defendant No.1 is only to drag on the proceedings and to harass the plaintiff. The defendant No.1 already filed an application under order 18 rule 7 of C.P.C, which was numbered as 1.A.No.16/2024 for recall PW1. That

application was allowed and the defendant No.1 cross-examined the plaintiff and defendant No.1 himself closed the cross-examination of the plaintiff. There is no bonafide reasons in the affidavit to believe the contention of the defendant No.1. On this ground also the application filed by the defendant No.1 is liable to be dismissed. Hence, it is prayed to dismiss the applications.

5. I have heard the counsels on both the applications.

6. The points that arise that consideration of this court are as under;

P O I N T S

Point No.1. Whether the defendant No.1 has made out sufficient grounds to reopen the case and recall the PW1 for cross examination?

Point No.2. What order ?

7. The findings of this court on above points are as under:

Point No.1 :-In Affirmative

Point No.2 :-As per final order

for the following;

REASONS

8. Point No.1: On perusal of the application, it is seen that, the plaintiff has filed the suit for the relief of the specific performance of contract against the defendants. Now, stage is stood for the arguments. At this juncture, the defendant No.1 has moved the instant applications to recall and reopen the case for further cross-examination of PW1. Further it is stated that, now plaintiff has amended the plaint and with respect to the amendment he had questions to get clarification by the PW1. Further he also stated that, he had some documents pertaining to the plaintiff. Hence, he had filed the application. If the said application is not allowed, then the last opportunity for the applicant to prove his case will be denied and he will be put into hardship which cannot be compensated by any means. Hence, in the interest of justice, last and final chance has to be given to the defendant No.1 to cross-examine the PW1 with condition. Hence, I proceed to pass the following:-

ORDER

I.As No.19 and 20 filed by the
defendant No.1 U/s 151 of CPC

and U/o 18 Rule 17 of CPC are hereby allowed on cost of Rs.1,500/-. Out of that Rs.500/- will be paid to the TLSA, H.D.Kote.

Further, PW1 is directed to be present at the next date of hearing without fail to tender himself for cross-examination. If he fails to appear before the court on the next date of hearing cost of Rs.1000/- will be remitted to the T.LSA.

For further defendants are hereby directed to cross-examine the PW1 on the next date of hearing without fail.

R/by 18.02.2026

Sd/-

**Senior Civil Judge & JMFC,
H.D.Kote**