

**THE COURT OF THE PRL. SENIOR CIVIL JUDGE
AND J.M.F.C., HUNSUR.**

Present: **Smt. Shirin Javeed Ansari,**
B.A., L.L.B.,(Hon's) LL.M
Prl. Senior Civil Judge & J.M.F.C.,
Hunsur.

Dated, this the 14th day of July 2022

O.S.NO.48/2018

Plaintiff : Sri. S.B. Puttasetty

V/s

Defendant : Sri. Huchegowda

PARTIES IN IA NO.VIII

Applicant/plaintiff : Sri. S.B. Puttasetty

V/s

Opponent/defendant : Sri. Huchegowda

ORDERS ON IA. No. VIII

The present application is filed by the applicant/plaintiff U/O 16 Rule 1 and 2 R/w Section 151 of CPC seeking for permission to file list of witness in the case by the plaintiff side in the interest of justice and equity.

2. The application is supported by affidavit of the plaintiff wherein it is stated that the plaintiff has filed the present suit for the relief of specific performance of the contract. This court has given sufficient time to produce witness list but he could not produce it in time then the court has taken as list of witness as nil and posted for further stage. Here with produced list of witnesses along with permission application. If the above application is not allowed the applicant will be put to loss and hardship. Hence, prayed to allow the present application in the interest of justice and equity.

3. In the present application is opposed by the defendant by filing separate objection wherein it is stated that the application are neither maintainable in the eyes of law nor on the basis of facts. The affidavit support of application does not depict the true set of fact, due to reason that, when there is no contractual obligation on the alleged document stated by the plaintiff does not have any sanctity including the manufactured document of the same cannot be looked into on

the alleged document produced by the plaintiff. Hence, on the said ground the application has to be rejected in totality.

4. It is further averred by the defendant that, it is a self interested witnesses of the plaintiff for his vim's and fancy's, the said witnesses is not necessary on the alleged document and they are interested witness on behalf of the plaintiff. Hence, that cannot be taken into consideration, due to reason that when the alleged suit document itself is a manufactured document on the face of the record. Hence, the said witnesses in the application has not being mentioned nor tendered the witness in support of the application can be looked into by this court without name of the witnesses in the application have not sanctity on the application itself. View from the any of the application, the application does not survive for consideration and without mentioning the name of the witnesses in the application. Hence, in view of this, the defendant prayed to reject the above mentioned application with costs.

5. Heard both the counsels.

6. The following points are arise for my consideration.

1. Whether the applicant/ plaintiff have made out grounds to allow the present application?

2. What order?

7. My answer to the above points are as under

Point No.1: In the Affirmative.

Point No.1: As per final order

for the following reason.

REASONS

8. **Point No. 1** : On careful and meticulous perusal of the materials available on record it is found that the present suit is filed by the plaintiff against the defendant for the relief of specif performance of the contract. This court has already framed the issues and accordingly said the issues are much on the plaintiff. That at the earlier stage the plaintiff has not filed the list of witnesses. Hence, the plaintiff has sought for permission to file list of witness in the case by the plaintiff side. No doubt the plaintiff has not stated anything in his

affidavit as to how these witnesses are relevant in the present case and on what point the plaintiff is intending to lead further evidence. But considering the issues framed and the burden casted upon the plaintiff in the present case, the court is of the opinion that it is necessary for the plaintiff to accord permission to lead further evidence in order to prove his case in a better way. Hence in view of this I answer point No.1 in the affirmative.

9. **Point No.2:** In view of the reasons as and above and findings arrived at on point No.1, I proceed to pass the following;

ORDER

IA No. VIII filed by the applicant/ plaintiff under order 16 Rule 1 and 2 R/w Section 151 CPC is hereby allowed on cost of Rs.600/-.

The plaintiff is hereby permitted to lead his evidence of the witness as mentioned in the list on the next day itself, failing

with which the court will proceed
to pass the suitable orders.

For further evidence of the
plaintiff.

Prl. Senior Civil Judge & JMFC
Hunsur