

KAMS300045932022



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE
AND J.M.F.C AT HUNSUR**

Present: Smt.Anitha, B.A. (Law) L.L.B.,
Prl.Senior Civil Judge & JMFC.,
Hunsur.

Dated this the 10th day of April, 2026

OS No.224/2022

Plaintiff: Smt.Pushpindar Kour Shobha.,
W/o Vikramjith Singh., Aged about 55 years,
R/at Prime Residency, T.F.-4, Hootagalli
Village, Mysore Taluk, Mysore District.

-Vs-

Defendants: 1. Sri.Sannegowda, S/o Late Malegowda,
Aged about 65 years,
2. Sri.Mahadeva, S/o Sannegowda,
Aged about 45 years,
3. Smt.Vijaya, W/o Mahadeva,
Aged about 38 years,
4. Pooja, D/o Mahadeva,
Aged about 18 years,
5. Punya, D/o Mahadeva,
Aged about 16 years,
Since 5th defendant is Minor represented
her Natural Guardian Father i.e., 2nd
defendant Mahadeva.
6. Sri.Krishna, S/o Sannegowda,
Aged about 38 years,
7. Smt.Gowri, W/o Krishna,
Aged about 35 years,

8. Boopathi, S/o Krishna,
Aged about 13 years,
9. Lokesh, S/o Krishna,
Aged about 10 years,

Since 8th and 9th defendants are Minor represented her Natural Guardian Father i.e., 6th defendant Krishna.

All are residing at Mallinathapura Village, Bilikere Hobli, Hunsur Taluk, Mysuru District.

1.	Provision under which the applications are filed	:	Under Section 151 of CPC, Order 18 Rule 17 R/w Section 151 of CPC and Order 16 Rule 1 and 2 R/w Section 151 of CPC
2.	Relief sought for	:	To reopen the case for the purpose of further evidence and to permit the plaintiff to produce witness list
3.	The date on which the application is filed	:	12.03.2026
4.	Number of the applications	:	IA.No.IV to VI
5.	The date on which the objections are filed by different opponents	:	02.04.2026
6.	The date on which the orders passed on the said application	:	10.04.2026

ORDERS PASSED ON IA NO.IV TO VI

When the case is posted for arguments, the learned counsel for the plaintiff filed IA No.IV under Section 151 of CPC for the purpose of reopening the case to file witness list

and to examine the witnesses. Further filed IA No.V under Order 18 Rule 17 R/w Section 151 of CPC for the above said purpose and also filed IA No.VI under Order 16 Rule 1 and 2 R/w Section 151 of CPC to permit the plaintiff to file the witness list.

2. All the applications are supported with the affidavits of the plaintiff wherein she has stated that, she has filed the suit against the defendants seeking the relief of specific performance of contract in respect of the suit schedule properties and on the last date of hearing she could not produce the witness list due to non-availability of the witnesses. Examination of the said witnesses is very much necessary to prove her case. If the applications are not allowed she will be put to great hardship. On the other-hand if the applications are allowed no hardship is going to be caused to the other-side. Hence, prayed to allow the applications.

3. On the other-hand the learned counsel for the defendants filed common objection contending that, the applications are not maintainable under law or on facts. It is also contended that, though this court provided sufficient opportunities to the plaintiff, but she has not filed the witness list earlier. It is also contended that, the applications are filed with an intention to fill-up the lacuna. The said applications are also filed to harass and defeat the right of the defendants and with an intention to drag on the proceedings. Hence, prayed to dismiss the applications with costs.

4. Thereafter heard arguments addressed by learned counsels for the plaintiff and the defendants and perused the case papers. After hearing the arguments and on perusal of the case papers, the points that arise for consideration are as hereunder:

POINTS

1. Whether the plaintiff has made out sufficient grounds to reopen the case for the purpose of further evidence of the plaintiff?
2. Whether the plaintiff has made out sufficient grounds to permit the plaintiff to file the witness list?
3. What order?
5. The findings on the above points are as hereunder:

Point No.1: In the affirmative

Point No.2: In the affirmative

Point No.3: As per the final order
for the following:

REASONS

6. **Point No.1 and 2:-** Since, these points are inter-connected with each other and needs common discussion on the same set of facts and to avoid repetition of facts, these points are taken up together for discussion.

7. The plaintiff herein has filed the suit against the defendants seeking the relief of specific performance of contract directing the defendants to execute the registered sale deed in her favour by receiving balance sale consideration of Rs.10,41,250/- and also sought for alternative relief of refund of earnest money with interest at the rate of 24%. It is the

specific case of the plaintiff that, defendants are the absolute owners of the suit schedule property and in order to meet their urgent financial necessity the defendants have agreed to sell the suit schedule property infavour of the plaintiff and as such they entered into a sale agreement on 25.11.2015 for total sale consideration of Rs.16,41,250/- out of which the plaintiff paid advance amount of Rs.2,00,000/- by way of cheque. The defendants agreed to execute the registered sale deed by receiving balance sale consideration of Rs.14,41,250/- and inspite of providing sufficient opportunity the defendants have not come forward to execute the sale deed and as such the plaintiff got issued legal notice on 23.06.2022. Inspite of service of legal notice defendants have not come forward to execute the sale deed. As such the plaintiff filed to this suit.

8. After filing of the suit defendants appeared through their counsel and filed the written-statement denying the entire case of the plaintiff. The defendants have contended that, the sale agreement was executed only for the purpose of security to the hand-loan of Rs.2,00,000/- received by them from the plaintiff. On the basis of rival pleadings of the parties this court framed the issues on 30.03.2023 and posted the case for plaintiff evidence.

9. In order to prove the case the plaintiff stepped into the witness box and examined herself as PW1 and she got marked totally 15 documents as per Ex.P1 to Ex.P15. Thereafter, the 2nd defendant stepped into the witness box and examined himself as DW1. He got marked nine documents as

per Ex.D1 to Ex.D9. When the case has been posted for arguments, the plaintiff came up with these applications. It is the specific case of the plaintiff that, earlier she could not able to get the witnesses, so now she has filed these applications to examine the witnesses. The plaintiff in support of her applications also produced the witness list. If the witnesses are examined, definitely defendants will get an opportunity to cross-examine those witnesses. Admittedly, there is delay in production of witness list which could be compensated by imposing costs. Therefore, this court comes to conclusion that, the plaintiff has made out sufficient grounds to permit her to examine the witnesses. Accordingly, Point No.1 and 2 are answered Affirmative.

10. **Point No.3**: In view of the reasons discussed above, this court proceeds to pass the following:

ORDER

IA.No.IV filed under Section 151 of CPC, I.A. No.V filed under Order 18 Rule 17 R/w Section 151 of CPC and IA No.VI filed under Order 16 Rule 1 and 2 R/w Section 151 of CPC by the plaintiff are hereby allowed with costs of Rs.250/- each.

Accordingly, the case is reopened and the plaintiff is permitted to lead further evidence and the witness list is received.

The plaintiff shall pay witness batta of
Rs.500/- each to the witnesses on their
appearance before the court.

(Dictated to the Stenographer, transcribed and computerized by her
on the computer, transcript corrected and pronounced by me in the open
court on this the 10th day of April, 2026.)

Sd/-

(Anitha)

Pr1.Senior Civil Judge and JMFC.,
Hunsur.