



IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC
AT K.R.NAGAR

PRESENT: Sri. Aravindra B.C., B.A., L.L.B.,
Senior Civil Judge & JMFC,
K.R. Nagar.

Dated this the 21st day of February, 2026

O.S. No.45/2020

Plaintiff : Sri. Rochan M.K.

-V/s-

Defendants : Smt. Bhagyamma and others

Parties to I.A.No.XXII & XXIII

Applicant : **Sri. Rajegowda,**
S/o Late Nagegowda,
Aged about 25 years,
R/at: Beechanahalli koppalu
Village, Mirle Hobli,
K.R.Nagar Taluk,
Mysuru District.
.....3rd defendant
(By Sri. B.K.N., Adv.)

-Versus-

Opponent : **Sri. Rochan M.K.,**
S/o M.K.Kotegowda,
Aged about 35 years,
R/at: R.P.Road,
Mirle Town and Hobli,



K.R.Nagar Taluk,
Mysuru District.

**.....Defendant
(By Sri. P.D., Adv.)**

Provision under which the application is filed	Under Section 151 of CPC and Under order 18 Rule 17 of CPC.
Relief Sought For	Reopen the case and recall the PW-1 in order to further cross-examination.
The date on which the application is filed	11.02.2026
Number of the application	IA No.XXII and XXIII
The date on which the objections are filed by the different opponents	12.02.2026
The date on which the orders were passed on the said application	21.02.2026

**Senior Civil Judge and JMFC,
K.R.Nagar.**

ORDER ON IA.No.XXII and XXIII

The defendant No.3 has filed applications under Section 151 of CPC for reopen the case and under Order 18 Rule 17 of Code of Civil procedure, to recall the PW-1 in order to further cross-examination of PW-1.



2. In the affidavits which enclosed to IA No.XXII and XXIII, wherein he has stated that, the plaintiff has filed the suit against the defendants for the relief of Specific Performance of Contract with respect to the suit schedule property. Further stated that, due to non-availability of the documents, he did not conduct the cross-examination of the PW-1 properly. Hence, he prays for recall the PW-1 for the purpose of cross-examination of PW-1. Hence, he prays for allow the applications.

3. On the other hand, the plaintiff has filed objection to the applications.

4. Heard arguments counsels for appearing of the parties. The following points arise for my consideration.

1. Whether the applications filed by the defendant No.3 Under Section 151 of CPC and under Order 18 Rule 17 of C.P.C are deserves to be allowed ?

2. What order ?



5. After going through the records and hearing the parties the above points are answered as follows:

Point No.1 : In the *Negative*
**Point No.2 : As per final order
for the following:-**

R E A S O N S

6. **Point No.1:-** It is noticed from the pleadings of the parties, the plaintiff has filed the present suit against the defendants for the relief of Specific Performance of Contract on the basis of registered agreement for sale dated 24.04.2019. On the other hand, the defendant No.3 has appeared before this court and filed written statement. On the basis of rival claimants of the parties, this court has framed necessary issues and trial was concluded. When the case was posted for defendant's side arguments, the present applications were filed by the defendant No.3 to recall the PW-1 in order to cross examination.



7. Further, the records shows that, the plaintiff himself has examined as PW-1 on 17/07/2021. Further the record shows that, initially the defendant was placed ex-parte. Hence, the cross-examination of PW-1 was taken as nil. Further, after filing of the written statement and with permission of the court, the defendant No.3 has cross examined to the PW-1 on 13/06/2023. On that date, the defendant No.3 has cross examined to the PW-1 at length. Further, on the same day he prays to further cross-examination of the PW-1. Accordingly, the case was posted for further examination of PW-1 on 05/08/2023. On that date, the PW-1 has fully cross-examined. Further record shows that, on 04/09/2024 the plaintiff has produced the documents and which are marked at Ex.P-10 to P17. On 27/11/2024 the PW-1 has fully cross-examined. Further on 03/04/2025 the plaintiff has produced one document which is marked at Ex.P-18. On 28/04/2025 the defendant No.3



has cross-examined to the PW-1. Thereafter, the case was posted for arguments.

8. Further the record shows that, when the case was posted for arguments on merits, the defendant No.2(a) has filed application under section 151 of CPC seeking permission to file written statement. On contest, the said application was rejected by the order dated 17/12/2025. Further record shows that, the defendant No.3 has filed application IA No.21 under order 26 Rule 9 of CPC in order to appoint the court commissioner. On contest, the said application was rejected by order dated 07/02/2026 and case posted for defendant's side arguments. On that day, the defendant No.3 has filed present applications for reopen and recall the PW-1. In the affidavit, the defendant No.3 stated that, due to non-availability of the documents, he could not complete the cross-examination properly. Whereas in the written argument, the defendant No.3 stated



that, the PW-1 himself produced the additional documents as per Ex.P-16 to P18. But, the defendant No.3 has not been cross-examined to the PW-1. On perusal of the depositions of PW-1, it is noticed that, the defendant No.3 has fully cross- examined on Ex.P-16 to P18. Further, the defendant No.3 has not assigned any specific reasons in the applications.

9. Under Order 18 Rule 17 of CPC says that, “court may recall and examine witness”. According to this provision, the court may at any stage of a suit recall any witness has been examined and may (subject to the law of evidence for the time being in force) put such questions to him as the court thinks fit. The provision consists two limbs. The first limb is to grant permission to recall or re-examination of any witness on the application and the second limb deals with the power of the court to recall any witness *suo-moto*. If the court finds that, the evidence of the particular witness is



necessary and required in certain the clarification for effective adjudication, recording the reasons for such recall or examination of any witness the court may allow the person to examine the witness. In this case on hand, the PW-1 has already been examined in length. The contention taken by the defendant No.3 that, he did not cross-examined to the PW-1 on Ex.P-16 to P18. On perusal of the deposition of PW-1 it makes clear that, the defendant No.3 has cross-examined to the PW-1 on Ex.P-16 to P18.

10. At this stage, it is relevant to refer the decision of Hon'ble Apex court in the case of **Varadaraj Nagappa Vernekar Vs. Sharad Chand Prabhakar Gogate**, wherein the Hon'ble Apex court considered the scope of under order 18 Rule 17 of CPC i.e., to recall of witness after examination is completed. The scheme and object and held that, it is obvious that only after the cross-examination of the witness that certain lapses in his evidence came to be noticed which



impelled the appellant to file the application under Order 18 Rule 17 of CPC. Such a course of action which arises out of the fact situation in this case, does not make out a case for recall of a witness after his examination has been completed.

11. Further, the Hon'ble Apex court held that, the power of recall any witness under Order 18 Rule 17 of CPC can be exercised by the court either on its own motion or on an application filed by any parties to the suit, as indicated herein above, such power is to be evoked not to fill up the lacunae in the evidence of the witness which has already been recorded but, to clear any ambiguity that, may have arisen during the course of his examination in chief. In this case there is no ambiguity in the earlier evidence of the PW-1.

12. Further important aspect is to be noted that, the PW-1 has fully cross-examined by the defendant No.3 at length. Further, the defendant No.3 has not given any



sufficient reasons in the affidavit which enclosed to applications. The materials available on record are sufficient to dispose the case effectively. In view of the discussion above, this court is of the considered opinion that the defendant No.3 has not made out any grounds to allow the applications to recall the PW-1 in order further cross-examination. **Hence this court answered point No.1 is in the "*Negative*".**

13. **Point No.2:** For the above said reasons and discussion this court proceed to pass the following:

ORDER

The I.A.No.XXII and XXIII filed by the defendant No.3 under Section 151 of CPC and under Order 18 Rule 17 of CPC are hereby rejected on cost of Rs.1000/-.

[Dictated to the Typist directly on computer, corrected and then pronounced by me in the Open Court on this the 21st day of February, 2026]

**(ARAVINDRA B.C.)
SENIOR CIVIL JUDGE & JMFC,
K.R.NAGAR.**