

ORDER ON I.A.NO.8 and 9

The plaintiff has filed IA.No.8 U/O.18 Rule 17 R/w Sec.151 of CPC for recall of PW-1 and IA.no.9 U/Sec. 151 of CPC for reopen of PW-1 to lead further evidence in view of amendment of the plaint.

2. The defendant has filed objection by denying the contents of application and affidavit and stated that the plaintiff only to drag on the matter had filed on application. At this belated stage the applications are not maintainable. Hence prays to reject the application.

3. Heard on both sides.

4. The point for consideration are as follows:

1. Whether the plaintiff has made out grounds to allow the application?

2. What order?

5. My findings on the above points are as under:

Point No.1. In the Affirmative.

Point No.2. As per final order, for the following:

:REASONS:

6. Point No.1:- It is a suit for specific performance of contract. The plaintiff has stated that recently he got amended the plaint but he was unable to lead further evidence. Therefore he intends to adduce further evidence on the portion of amended plaint.

7. The defendant objected to the applications on the ground that only to drag on the matter the application have been filed. The plaintiff himself deciding the stages of the case. The defendant has not at all filed additional written statement to the amended plaint so the question of adducing further evidence does not arise. If the applications are allowed the defendant will be put to hardship and loss hence prays to reject the applications.

8. On perusal of the applications, objections and hearing arguments on both side. It is admitted fact that the plaint has been amended as per Order on IA.No.7 and it is also admitted fact that defendant has not filed any additional written statement. Even though chance was given to the

plaintiff to adduce further evidence but plaintiff failed to adduce further evidence at the earlier point of time. Now when the case is posted for arguments the plaintiff has filed present applications seeking permission to adduce further evidence. It is settled principle of law that the evidence must be in-consonance with the pleadings. If there is no evidence as per the pleadings and if there is no pleadings according to the evidence both are not acceptable. Even though the defendant has not filed the additional written statement to the amended plaint but the burden is on the plaintiff to prove his case. Therefore even if there is no additional written statement the plaintiff has right to adduce further evidence as per his pleadings.

9. By allowing the applications no hardship will be cause to the defendant. If the applications are not allowed the plaintiff will be put to hardship and loss which cannot be compensated in terms of money. Therefore the objections of the defendant are not sustainable. Therefore, point No.1 is held in the affirmative.

10. Point No.2 as per discussion and finding on the above point No.1. I proceed to pass the following:

: O R D E R :

IA.No.8 filed by plaintiff U/O.18 Rule 17 R/w Sec.151 of CPC is here by allowed on cost of Rs.500/- in the ends of justice and equity.

IA.No.9 filed by plaintiff U/Sec. 151 of CPC is here by allowed on cost of Rs.500/- in the ends of justice and equity.

For further plaintiff evidence.

Call on 18-07-2026.

(Dictated to the Stenographer, directly on computer corrected and then pronounced by me in the open court, this the 01st day July-2026)

Sd/-
(Shankarappa Malashetti)
Addl. Senior Civil Judge
& JMFC-I, Raichur.