

**IN THE COURT OF ADDL. SENIOR CIVIL
JUDGE,
RAMANAGARA**

:PRESENT:

**Smt. K.Srividya, B.A.L., LL.M.,
Addl. Senior Civil Judge,
Ramanagara.**

O.S. No.84/2006

DATED : THIS THE 15th DAY OF NOVEMBER 2017

Plaintiff : Smt. Ramakka.

- V/s -

Defendants : M/s.Edulink Pvt. Ltd.

* * * *

Orders on I.A. dated 10.10.2017

I.A. dated 10.10.2017 is filed by the defendant No.1 under Order 18 Rule 17 r/w Sec.151 of CPC to recall PW1 and permit defendant No.1 to further cross-examine PW1. It is accompanied by affidavit. Objection is filed to the said application.

2. In the affidavit accompanying the application, it is stated that, the plaintiffs have filed a suit seeking declaration relief and to declare that, the sale deed dated 30.07.2005 is null and void. Further state, they had filed an application U/s.63 of Indian Evidence Act, to get the photo copies of agreement of sale and GPA marked in evidence since, the originals have been lost. However, said application was disallowed by this Court. Further state, in view of disallowing the marking of

photocopies of sale agreement and GPA, it is necessary to cross-examine PW1 on the said aspect. Hence, prays for recalling PW1 for further cross-examination. Hence, prays for allowing the application.

3. In the objection, apart from usual denial of the averments mentioned in the affidavit accompanying the application, the plaintiffs state that, as per Order 18 Rule 17, it is only the Court which can recall a witness for cross-examination. Further state that, the Court cannot recall the witness at the instance of the party in order to fill up the lacuna in the cross-examination. Further contend, PW1 was for cross-examined at length 1½ years back and now under the present application he cannot be recalled for further cross-examination.

Further state, there is no convincing reason furnished for recalling PW1 for further cross-examination. Further state that, the present application

is filed by defendant No.1 only to protract the proceedings. Hence, prays for rejection of the application with heavy cost.

4. The following points arise for my determination.

*(1) Whether the PW1 can be recalled
for further cross-examination ?*

(2) What order ?

5. Heard the Counsels.

6. My findings on the above points are as follows.

Point No.1 : In the Affirmative

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

REASONS

7. POINT No.1: Heard the counsels and perused the records. 1st defendant who is the purchaser under the suit claims to recall PW1 for further cross-examination on the ground that, so far as GPA and sale

agreement documents they have to cross-examine the witness. Eventhough, PW1 has been cross-examined at length by the defendants, this Court views that, being a Court of first instance, this Court views that, another opportunity has to be given to defendant No.1 to further cross-examine PW1 by imposing cost on defendant No.1. With this observation, **Point No.1 is answered in the Affirmative.**

8. Point No.2 : Based on findings in point No.1, proceed to pass the following:

ORDER

I.A. dated 10.10.2017 filed by defendant No.1 under Order 18 Rule 17 r/w Sec.151 of CPC is hereby allowed on cost of Rs.1,000/-.

PW1 recalled for further cross-examination by defendant No.1.

Defendant No.1 is directed to further cross-examine PW1 on next date without further protracting the disposal of the suit.

**Addl. Senior Civil Judge,
Ramanagara.**

