

KARN210012362019



O.S. No.125/2019

IN THE COURT OF ADDL.SENIOR CIVIL JUDGE
& J.M.F.C. AT CHANNAPATNA.

Present:-

Sandesha.K.,M.A.,L.LB.

(Addl.Senior Civil Judge & J.M.F.C., Channapatna)

Dated: 16th Day of April 2026

ORIGINAL SUIT No. 125/2019

Plaintiff : Smt.Padma,
W/o Late Ramakrishnaswamy.
Aged about 61 years,
R/at Byrapatna Village,
Malur Hobli,
Channapatna Taluk,
Ramanagara District

(By: Sri.M.M. Adv.,)

V/S

Respondents : 1. Sri.Vijendra,
S/o Late Channappagowda,
Aged about 62 years,

2. Smt.C.V.Ashwini,
D/o Vijendra,
Aged about 38 years,

3. Smt.Aruna,
D/o Vijendra,
Aged about 34 years,

Defendant No.1 to 3 are R/at,
Chakkere Village,
Malur Hobli,



2 O.S. No.125/2019(or)

Channapatna Taluk,
Ramanagara District.

4. Smt.H.N.Deepika,
W/o C.V.Aruna,
Chakkere Village,
Malur Hobli,
Channapatna Taluk,
Ramanagara District.

(D-1 to 4 By: Sri. J.P Adv.,)

Parties on IA No.III and IV

Applicants/ Defendants : Sri.Vijendra and others

V/s

Opponent/Plaintiff : Smt.Padma,

1.	Provision under which applications filed.	Under order 18 rule 17 R/w section 151 of CPC.
2.	Relief sought	Pray for recall and revoke on the case for cross-up PW1.
3.	The date on which application filed.	09.03.2026
4.	Number of applications	IA No.III and IV
5.	The date of which the objection filed by the respondent/ defendant	13.03.2026
6.	The date on which the order were passed on the said application	16.04.2026



ORDERS ON I.A.NO. III AND IV FILED BY
THE DEFENDANTS UNDER ORDER 18 RULE
17 R/W, SECTION 151 OF CPC

This application filed by the defendants under Order XVIII Rule 17 and Section 151 of CPC. Pray for recall and reopen on the case for cross-up PW1.

2. At the stage of defendants arguments on merits defendants are filed this application.

3. In the affidavit filed in support of application, defendant No. 3 stated that, plaintiff has filed suit against the defendants for the relief of specific performance of contract. Father of defendant No. 2 to 4 died. Defendant No. 2 to 4 have no information about the case of the plaintiff. In the previous hearing date, defendants have to cross-examine PW1. But due to some problem, defendants have not cross-examined PW1. Therefore, the cross-examination of PW1 taken as nil. If the application is not allowed, the defendants will put irreparable loss and injury and if the application is allowed, no hardship and injury caused to the plaintiff. Hence, pray for allow the application.



4 O.S. No.125/2019(or)

4. In return, plaintiff has filed objection No.III and IV by contending that plaintiff has filed a suit against the father of the defendants for the relief of specific performance of contract. In the year of 2019, summons served to the defendants and defendants have appeared before the court through their advocate. Intentionally they have drag on the matter without any reason. It is further contented that the plaintiff has filed chief examination on 05.10.2021. The defendants have taken 17 adjournments for cross-examination. Thereafter, the cross-examination of PW1 taken as nil. After the argument of the plaintiffs side, defendants have taken adjournment and filed this application to drag on the proceedings. Hence, prefer dismiss the application with costs.

5. Heard on arguments of both parties and perused the pleadings and materials on record.

6. The following points that arise for the consideration of this court.

1. Whether the defendants have made out a ground to allow IA No.III and IV ?

2. What Order?



5 O.S. No.125/2019(or)

7. Both side have argued in par with their pleadings. Having heard arguments on both side, my findings to above points are:

Point No.1 : In the **Negative.**

Point No.2 : As per final order

For the following;

REASONS

8. Point No.1:- The plaintiff has filed this suit against the defendants for the relief of a specific performance of contract. It is the case of the plaintiff that mother of the defendants intended to sell the suit schedule property and plaintiff has agreed to purchase the same. On 28.02.2019, sale negotiation for suit schedule property is held. Accordingly, The mother of the defendants has agreed to sell the suit schedule property for the valuable consideration amount of Rs.10,00,000 and received advance amount of Rs.5,00,000. Thereafter, before registration of regular sale deed the deceased Sowbhagya died. Therefore, the suit is filed against the defendants.

9. Plaintiff has filed this suit in the year of 2019. After registration of suit as contemplated under law, suit summons came to be issued to the defendants. In response of the suit summons,



6 O.S. No.125/2019(or)

defendants have appeared before the court through their advocate and filed their written statement. Based on the pleadings, this court has framed issues and cases posted for plaintiffs evidence. Plaintiff has filed her examination chief by way of affidavit and also some documents got marked. Thereafter, the defendants have taken several adjournments for cross-examination. Finally, Despite of giving sufficient time, the defendants have not cross examined PW1 to PW4. Therefore, the cross examination of PW1 to PW4 taken as nil and case is posted for defendants evidence. Despite of giving sufficient time, defendants have not lead the evidence. Therefore, the evidence of the defendants taken as nil and case is posted for plaintiff argument. Plaintiff has also addressed his argument on 07.03.2026. Thereafter, defendants have filed present application for recall and reopen on the case for cross-examination of PW1.

10. Submission of the defendant counsel is defendants have no information about the case of the plaintiff. Therefore, the defendants have not cross examined the PW1. If the application is allowed, no hardship and injury caused to the plaintiff. Hence, pray for allow the application. Per contra, the



7 O.S. No.125/2019(or)

submission of plaintiff counsel is in order to drag on the matter, the defendants have not cross examined PW1 and also not addressed the argument on merits. At the final stage, the defendants filed this application for recall and reopen of the case for cross examination of PW1. Defendants have appeared before the court through their counsel and filed the written statement. Hence, the contention of the defendants is not tenable. If the application is allowed, the plaintiff will be put irreparable loss and injury. Hence, pray for dismissed the application with costs.

11. Having heard the submission made by the both parties and perused the material and record, order sheet disclose that plaintiff filed examination chief by way of on 05.10.2021. Thereafter, defendants have taken many adjournments for cross-examination of PW1. After giving sufficient time, the defendants have not cross-examined PW1. Therefore, the cross-examination of PW1 taken as nil and case posted for further evidence of the plaintiff. Plaintiff has filed list of witnesses and also examined three witnesses as PW2 to PW4. PW2 to PW4 is also not cross examined. Therefore, cross examination of PW2 to PW4 taken as nil and case is posted for plaintiff and defendants not



8 O.S. No.125/2019(or)

lead the evidence despite of the giving sufficient time. Hence, evidence of the defendants taken as nil. Thereafter, plaintiff counsel learned on arguments. Then the defendants have filed this application. The order sheet clearly reveals that despite of giving sufficient time, the defendants have not cross examine PW-1. Hence, the contention of the defendants are not tenable. The defendants have taken sufficient time for cross-section PW1 and also lead the evidence. But defendants are not using their time. Therefore, the cross-examination PW1 and the evidence of the defendants take was nil. The affidavit averments of the defendants is not sufficient to hold that they have made out a case. The order sheet clearly reveals that the defendants are not interested to proceed the case. The order sheet shows that the defendants have drag on the matter intentionally. Therefore, the application filed by the defendants are not been maintainable. Furthermore, since it is suit for specific performance of contract, defendants intentionally drag on the matter. Therefore, they have not cross examined PW1 to PW4 and also not lead the evidence after giving sufficient time. After argument of the plaintiff, the defendants have filed this application



9 O.S. No.125/2019(or)

itself shows that they have not interested to proceed the case. After the argument of the plaintiff, at the flag end of the case, the defendants have filed present application for recall of PW1 for cross examination. Not for PW2 to PW4. The averment of the affidavit clearly shows that the intention of the defendants is only for drag on the matter. Hence, there is no reason to allow the application. If the application is allowed, plaintiff will be put irreparable loss and injury. Accordingly, I answered point No.1 to 3 in the **Negative.**

12. Point No.4. In view of the reasons, discussions and conclusions arrived at Point No.1 in the result, this proceed to pass the following:

ORDER

I.A.No.III and IV filed by defendants under order 18 rule 17 R/w section 151 of CPC, is hereby rejected.

No order as to cost.

(Dictated to the stenographer directly on the computer corrected and signed by me and then pronounced in the Open Court on this 16th day of April 2026)

(Sri.Sandesha.K.)
Addl.Senior Civil Judge & JMFC.,
Channapatna

KARN210012362019



10

O.S.

**(ORDER PRONOUNCED IN THE OPEN COURT
(ON 16/04/2026)
(VIDE SEPARATE ORDER)**

ORDER

I.A.No.III and IV filed by
defendants under order 18 rule 17
R/w section 151 of CPC, is hereby
rejected.

No order as to cost.

For defendants arguments
merits finally. Call on .24.04.2026.

Addl.Senior Civil Judge & JMFC.,
Channapatna.

KARN210012362019



11

O.S.



**(ORDER PRONOUNCED IN THE OPEN COURT)
(VIDE SEPARATE ORDER)**

ORDER

The IA No. XIX, filed by the 1st defendant under order 6 rule 17 and section 151 of CPC is hereby rejected.

No order as to costs.

For further chief of DW1.

,

Prl. Civil Judge & JMFC.,
Belthangady.

KARN210012362019



13

O.S.