

OS No.205 of 2019

Case called out. Counsel are present.

**ORDER ON I.A. No.6 FILED UNDER SECTION
151 OF CPC BY THE PLAINTIFF DATED
04.12.2025**

1. The applicant/PW-02 has filed I.A. No.6 under Section 151 of CPC praying to permit him to discard the evidence already tendered as PW-02 and to grant liberty to adduce fresh evidence by filing a corrected affidavit, on the ground that the name of the father of PW-02 has been wrongly mentioned in the earlier affidavit evidence.
2. It is the case of the applicant that the present suit is filed for specific performance of contract said to have been executed between the plaintiff and the defendant. PW-02 is one of the witnesses on behalf of the plaintiff. It is stated that PW-02 has already been examined and has tendered his affidavit evidence. However, in the said affidavit evidence, the name of the father of PW-02 has been wrongly mentioned as "Mahadevaiah" instead of "Mangaiah". According to the applicant, the said mistake is a bona fide inadvertent error, which came to his knowledge recently. Hence, to rectify the said error, the present application is filed seeking permission to discard the earlier evidence of PW-02 and to permit him to file fresh evidence with corrected particulars.
3. It is further contended that unless such permission is granted, the incorrect name of the father of PW-02 will remain on record, which may cause prejudice and affect the correctness of the testimony. Hence, the applicant has prayed to allow the application in the interest of justice and equity.
4. Per contra, the learned counsel for the defendant has submitted that he has no objection for allowing the present application.

5. I have considered the affidavit filed in support of the application and the submissions made by the learned counsel for both sides.

6. The only ground urged in the application is that there is a bona fide mistake in mentioning the name of the father of PW-02 in the affidavit evidence. The proposed correction is limited in nature and does not appear to alter the substance of the testimony already recorded. Since the defendant has no objection and as the correction sought is only to rectify an apparent inadvertent error, permitting the applicant to file fresh affidavit evidence in substitution of the earlier evidence of PW-02 would meet the ends of justice. However, such liberty shall not be construed to reopen the entire evidence of PW-02, except to the limited extent of correction as stated. Accordingly, I proceed to pass the following:

ORDER

The I.A. No.6 filed by the plaintiff under Section 151 of CPC is hereby allowed.

The plaintiff/PW-02 is permitted to file fresh affidavit evidence by correcting the name of his father, in substitution of the earlier affidavit evidence already on record.

The earlier affidavit evidence of PW-02 shall be treated as not pressed / superseded to the limited extent of filing of fresh corrected affidavit.

No order as to costs.

Call on

PCJ & JMFC, CHANNAPATNA