

Plaintiff absent. Counsel for defendant present. Kept by.

Case again called out at 4.35 P.M. Plaintiff absent and his counsel present and prays time.

On perusal of the Order Sheet, it reveals that in spite of availing sufficient opportunities, the plaintiff not adduced his evidence. The ample opportunities granted to the plaintiff is not availed by him.

In the decision reported in **2011 AIR SCW 5789 (M/s. Shivkotex Vs. Tirgun Auto Plast Private Limited and Others)**, the Hon'ble Apex Court has held the view that no litigant has right to abuse the procedure provided in the Code of Civil Procedure. It is true that cap on adjournment to a party during the hearing of the suit provided under order 17 Rule 1 of C.P.C., which is not mandatory and in suitable case or justifiable cause, the Court can grant more than 3 adjournments to a party to lead evidence. However, it does not

mean that party to the suit is at liberty to seek adjournments one after the other. The party to the suit whether plaintiff or defendant must co-operate with the court in ensuring the effective work on the date of hearing for which the matter has been fixed. If they do not, they do so at their own peril.

As stated above, in the present case, inspite of availing sufficient opportunities plaintiff not adduced evidence and Stage is pending for P/E from 17.04.2026. Further, there is no counter claim on behalf of defendant. Counsel for Defendant submits that the Plaintiff has executed cancellation of agreement of sale dated 17.08.2020 on 06.03.2026 and he has already furnished the copy of the same.

Hence, taking into consideration the above said facts, the Court is of the opinion that the plaintiff may not interested to prosecute the case further. Hence, Prayer of the counsel for plaintiff is hereby rejected.

Accordingly, the suit of the plaintiff is dismissed for non-prosecution.

Sd/-

**Prl. Civil Judge & JMFC,
Kunigal**