



WEB COPY

A No. 4589 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-09-2025

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

A No. 4589 of 2025

AND

A NO. 4590 OF 2025 in CS NO. 823 OF 2016

1. V.Ramesh

Sole Prop. Gemini Enterprises, House
No.8-2-268/1/B Aurora colony, Road
No.3, Hyderabad 500 034 Having his
residence at Flat No.510, Krish
Meadows, Sri Nagar, Colony,
Hyderabad 500 034.

Applicant(s)

Vs

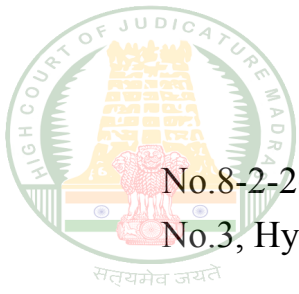
1. Hindustan Unilever Limited
Ponds House, No.101, Santhome High
Road, Chennai 600 028 Rep.its
Manager and Power of Attorney
Authorised Signatory Mr.Saif Jamal.

Respondent(s)

A No. 4590 of 2025

1. V.Ramesh

Sole Prop. Gemini Enterprises, House



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A No. 4589 of 2025



No.8-2-268/1/B Aurora colony, Road
No.3, Hyderabad 500 034

Plaintiff(s)

Vs

1. Hindustan Unilever Limited
Ponds House, No.101, Santhome High
Road, Chennai 600 028 Rep.its
Manager and Power of Attorney
Authorised Signatory Mr.Saif Jamal.

Defendant(s)

CS No. 823 of 2016

1. Hindustan Unilever Limited
Ponds House, No.101 Santhome High
Road, Chennai 28, rep. by its Manager
and Power of Attorney Authorized
Signatory Saif Jamali

Plaintiff(s)

Vs

1. V.Ramesh
Sole Prop. Gemini Enterprises, House
No.8-2-268/1/B Aurora colony, Road
No.3, Hyderabad 500 034

2....
residence at No.510, Krish Meadows,
Sri Nagar Colony, Hyderabad - 500
034.

Defendant(s)

A No. 4589 of 2025



PRAYER

To allow applicant to recall the plaintiff side witness in C.S.NO.823 of 2016 which was, on the file of this Honble Court.

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PRAYER

To allow applicant to reopen the plaintiff side evidence closed on 14/03/2025 in C.S.No.823 of 2016 which was on the file of this Honble Court.

A No. 4589 of 2025

For Applicant(s): M/s Kanisha For M/s.Nathan
And Associates

For Respondent(s): M/s Geetha Ara For
M/s.S.Ramasubramaniam And
Associates.

COMMON ORDER

These applications have been filed to recall and to reopen the plaintiff-side witness (PW.1) in [C.S.No.823](#) of 2016, on the ground that certain facts have been omitted to be clarified with PW.1 during her cross-examination.

2. The learned counsel for the applicant submitted that there is no renewal or extension of contractual relationship between himself and the plaintiff with respect to the goods ordered and delivered and the value for which the suit has

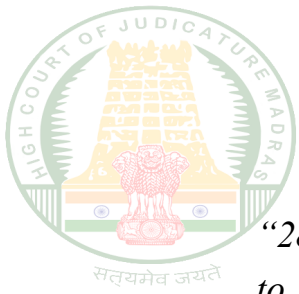


been filed for recovery of money.

WEB COPY 3. The categorical denial of the defendant is that the goods were neither ordered nor supplied to him and the plaintiff did not produce any record of delivery, acknowledgement of receipt or any supporting documents. His contention is that the plaintiff is raising the claims based on the unilateral invoices without the goods being delivered to him.

4. The learned counsel for the respondent/defendant objected by saying that the witness cannot be recalled just for the purpose of clarification repeatedly, and the object of it cannot be for the purpose of filling up omissions in the evidence or to take away the benefit of which has already accrued to the plaintiff.

5. In support of her above contention, reliance was placed on the judgement of the Hon'ble Supreme Court held in ***Vadiraj Naggappa Vernekar (dead) through LRs vs. Sharadchadra Prabhakar Gogate*** reported in (2009) 4 **SCC 410**. The relevant paragraph of the above judgement is extracted as below for better appreciation:



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“28. The power under the provisions of [Order 18 Rule 17 CPC](#) is to be sparingly exercised and in appropriate cases and not as a general rule merely on the ground that his recall and re-examination would not cause any prejudice to the parties. That is not the scheme or intention of [Order 18 Rule 17 CPC](#).

29. It is now well settled that the power to recall any witness under [Order 18 Rule 17 CPC](#) can be exercised by the Court either on its own motion or on an application filed by any of the parties to the suit, but as indicated herein above, such power is to be invoked not to fill up the lacunae in the evidence of the witness which has already been recorded but to clear any ambiguity that may have arisen during the course of his examination.”

6. Even according to the defendant, he relies to disprove his contentions only by pleading that the plaintiff did not produce sufficient documents to prove their claim of delivery the goods. In such case, the burden would be on the plaintiff to prove his contentions and the defendant can take advantage of the absence of documents produced by the plaintiff. As the transactions are supported by written documents, the defendant need not seek to clarify the same by seeking PW.1 to respond to his cross-examination orally. In case a witness speaks anything contrary to the contents of the written document produced



during the trial, it is not possible for the Court to appreciate the oral evidence by ignoring the written documents.

7. In view of the above-stated reasons, I don't find any justification to allow these applications seeking to reopen the plaintiff's side evidence and recall PW.1. Hence, these applications are **dismissed**.

18-09-2025

jrs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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R.N.MANJULA J.

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