

ORDER ON IA No.2 and 3

Heard both side on IA No.2 and 3 and peruse the contents and records.

After that defendant No.1 and 4 have filed these applications seeking permission to file written statement by setting aside the order with respect to written statement taken as not filed. In supporting the affidavit of defendant No.1 and 4 are filed along with their written statements. On the other hand, the learned counsel for plaintiff has filed that objections to the IA.

Heard the arguments on both side and perused the IAs.

In the affidavits, the reasons assigned by the defendants No.1 he could not get the relevant documents and unable to file the written statement within time. The defendant No.4 stating that due to ill-health and old age he could not contact his counsel and filed written statement well in time. Either in the application nor in the affidavits, the days of delay not reflected. The defendant No.1 appeared on 07-11-2014 through his counsel and defendant No.4 was impleaded and taken APC on 20-03-2015. These applications filed on 01-06-2015 and 22-06-2015. Hence there is a delay of 5 months and more than 53 days in filing their applications.

It is seen that the above, they have not choosen to file their written statements after entering appearance in the said suit through

their advocates till filing the IAs. They have quite for above mentioned days and they like as a silent spectators thereby looking behind the screen the proceedings of the case. Which goes to show that the defendants are trying to abuse the process of the court and as the defendants have not filed written statement within the stipulated time as prescribed under law, not have choosen to defend the case of the plaintiff. At this stage, the Hon'ble Apex Court has observed at para 7 of the decision reported in **AIR 2007 SC 1574 (M/s Aditya Hotels (P) Ltd. V/s Bombay Swadesh Stores Ltd. & Others)** will be taken into considered

Upon Considering the facts and circumstances, I am of the opinion that to avoid the multiplicity of proceedings and to meet the ends of justice and to decide the controversy involved in the suit between the parties finally, the present IAs are necessary to be allowed by imposing costs. Hence, I proceed to pass the following...

ORDER

IA No.2 and 3 U/o 8 rule 1 R/w Sec.151 of CPC are hereby allowed with cost of Rs.400/- and Rs.200/- respectively.

The written statements of defendant No.1 and 4 are taken on record with subject to payment of costs.

For costs and draft issues.

Sr. Civil Judge, Chikodi.