

ORDER ON APPLICATION U/SEC. 151 OF CPC

The advocate for the defendant No.1 to 11 filed the present application along with the affidavit and praying to permit the defendants to file the written statement by condoning the delay in the interest of justice and equity.

2. The plaintiff filed objections and prays to dismiss the application filed by the defendant No.1 to 11.

3. Heard the counsel and perused the materials on record.

4. Following points arise for consideration of this court:

1. Whether the defendant No.1 to 11 has made out grounds to allow the IA u/Sec. 151 of C.P.C.?
2. What Order?

5. The finding of this court to the above framed points are as follows:

1. Point No.1: In the Affirmative
2. Point No.2: As per the final order for the following....

REASONS

6. **Point No.1:** In the application and the affidavit the defendants contend that the court has directed the plaintiff to furnish the documents so that the defendants can file the written statement but the plaintiffs have not complied with the same till to the present date and also they submit that if the application is not allowed and they are

not permitted to file the written statement then they will be put to irreparable loss and hardship.

7. The plaintiff in the objections denies the contention of the defendants and take specific contention that the court has not directed to furnish any documents as alleged by the defendants. The order sheet does not show any such order being passed. Further the defendants do not have any valid reasons to file the written statement by making such delay. The reasons of the defendants cannot be accepted.

8. The plaintiff relied on 3 decisions of the Hon'ble High Court of Karnataka and they are 1) **Rabiya Bi Kasmi M V/s The Country Wide Consumer Financial Service Ltd., reported in ILR 2004 Karnataka 2215**, 2) **Abdul Shukoor V/s Samad Pasha and Another reported in 2020(1) KantLJ 777**, 3) **N. Ningappa V/s Dr. Vijaya Prakash, WP No. 35411/2014 (GM-CPC), date of decision 27.05.2019** and submits that as per the said decisions when the case is posted for Judgment then the court cannot entertain any IA for any kind of relief.

9. In one of the decisions relied by the plaintiff i.e., **N. Ningappa V/s Dr. Vijaya Prakash, WP No. 35411/2014 (GM-CPC), date of decision 27.05.2019** in the said case the Hon'ble High Court of Karnatka relied on the decision of **Hon'ble Supreme Court of India in K.K. Velusamy V/s N. Palanisamy, reported in (2011) 11 SCC 275** and held that it is not completely barred to entertain IA's, if there are exceptional or extraordinary circumstances if justified

applications can be considered to meet the ends of justice and to prevent the abuse of process of court.

10. In the present case the only ground on which the defendants are claiming to consider their written statement because the plaintiffs have failed to furnish the copy of the documents as per the direction of this court. Hence, the defendants were not able to file their written statement. The perusal of the order sheet shows that on behalf of defendants Vakalath was filed on 28.08.2024 and as the defendants failed to file any written statement it was taken as not filed on 30.09.2024. Thereafter, the case was posted for plaintiff evidence on 05.11.2024 and the case was posted for Judgment after the plaintiff evidence and arguments on 03.06.2025. Lastly when the case was posted on 12.06.2025 the defendants have filed the present application. In between all these dates there was no representation from the defendants and there is no order made directing the plaintiff's to furnish documents to the defendants. The present application was filed by the defendants after nearly close to 1 year from the day when the Vakalath was filed on their behalf.

11. N. Ningappa V/s Dr. Vijaya Prakash, WP No. 35411/2014 (GM-CPC), date of decision 27.05.2019, in the said case the Hon'ble High Court held as hereunder:

8. Ordinarily, once the case is heard and reserved for judgment, court do not entertain interlocutory applications, is true; however, in no circumstances, courts would entertain the applications, may not be the correct legal

position, an argument to the contrary would make the order reserving the matter for judgment a Great Wall of China blocking all interlocutory applications in any circumstances whatsoever and this would strike the deathknell of very justice which the judicial process is designed to achieve, vide Apex Court decision in the case of **K.K. Veluswamy V/s N. Palanisamy 2011 (11) SCC 275.**

12. Even though the reasons stated by the defendants for non filing of the written statement is vague, but applying the principle laid down in the above mentioned decision, this court is of the considered opinion that if the present application is not allowed and the written statement of the defendants was taken on record then firstly it would lead to multiplicity of proceedings, secondly it will not meet the ends of justice, because the defendants will loose their right to contend the case on merits. This court is of the considered opinion that the application filed by the defendants deems fit to be allowed. Accordingly this court proceed to answer **point No.1 in the Affirmative.**

13. Point No.2: But considering the lack-city shown by the defendants in filing of the written statement at such belated stage this court deems fit to impose heavy cost on the defendants and as per the reasons mentioned above this court proceeds to pass the following:

ORDER

IA filed by the defendant No.1 to 11 u/Sec.151 of CPC is hereby allowed on cost of Rs. 5,000/-.

The written statement filed by the defendants will be taken on record subject to the payment of the cost.

For cost payment by 29.07.2025.

Sd/-

**II Addl., Civil Judge & JMFC,
Doddaballapura.**