

**ORDER ON IA FILED UNDER SECTION 151
OF CPC**

The plaintiffs have filed this I.A U/S 151 of CPC seeking to file their rejoinder to the counter claim filed by the defendant no.11(a) to 17. It is contended that, the defendant no.11(a) to 17 have filed their written statement along with counter claim on 23-06-2015 and due to bonafide mistake the plaintiffs have not filed their rejoinder to the counter claim. Further it is contended that, recently at the time of preparing of evidence affidavit of plaintiffs, their advocate observed that, they have not filed their written statement to the counter claim filed by defendant no.11(a) to 17 and hence in order to avoid further litigation and in order to fair adjudication of this matter in issue effectively and completely they prayed to allow this application by condoning the delay in filing written statement-Rejoinder.

2. In response to this application filed by the plaintiffs the defendant no.11(a) to 17 filed their objection. In their objection statements the defendant no.11(a) to 17 have contended that, the application filed by the plaintiffs is belated and not maintainable in law and plaintiffs have sworn to false affidavit and further contended that, this suit

is one for declaration and permanent injunction filed against defendants and these defendants have filed their written statements in the year 2015 and the plaintiffs have come up with this present application after the lapse of 4 years 3 months and the plaintiffs have made out no grounds for the delay caused in filing of written statement-rejoinder. Hence the defendant no.11(a) to 17 prayed to dismiss the application.

3. Heard arguments from both sides.

4. The following point arise for my consideration.

1. Whether the application filed U/S 151 of CPC is deserves to be allowed?

5. My finding on the above point is in the affirmative for the following:

Reasons

6.Point no.1: On perusal of the records it is noticed that, the defendant no.11(a) to (g) are the legal representatives of Kenchappa S/o Mudre Hanumanthappa who was the original defendant no. 11 in the

above suit after the demise of said Kenchappa S/o Mudre Hanumanthappa these defendant no.11(a) to (g) are brought on record by the plaintiffs. After coming on record these defendants have filed their written statements on their behalf and there may be chances that, the said defendants might have taken new contentions in course of their written statements and the provisions of Order 8 Rule 6 (A) also provides for filing of reply by the plaintiffs to the subsequent pleadings filed by the defendants and it is also necessary to provide an opportunity to the plaintiffs to say their contentions as a reply to the subsequent pleadings filed by the defendant no.11(a) to 17 and it is also necessary to avoid multiplicity of proceedings and further litigations. If this application is allowed no hardship or damage would be caused to defendant no.11(a) to 17. Under such circumstances I deem it fit to pass the following:

ORDER

The I.A filed Under Section 151 of CPC by the plaintiffs is here by allowed on cost of Rs 500-00.

The written statement-rejoinder filed by the plaintiff Under Order 8 Rule 6(A) is taken on record. Call for additional issues if any by 29-11-2018

Senior Civil Judge & JMFC.,
Hiriyur.