

KACM200007432022



**IN THE COURT OF THE SENIOR CIVIL JUDGE,**  
**AT: KADUR.**

**Present:-** Sri. IRFAN.  
*B.A., LL.B.,*  
Senior Civil Judge & JMFC,  
Kadur, Chikkamagaluru District.

Dated : This the 9<sup>th</sup> day of September, 2025.

**O.S. No.229/2022**

**Plaintiffs** : Smt. Yashodamma & another.  
(By: Sri. K.A., Advocate)

**-V/s-**

**Defendants** : Sri. Parameshwarappa & othes..  
(Defendants No.1 to 3 by: Sri. M.S.H., Advocate)

**RANK OF THE PARTIES ON I.A.NO.XI**

Applicant /  
Defendant No.1 : Sri. Parameshwarappa.  
**-V/s-**



Opponents /  
Plaintiffs : Smt. Yashodamma & another.

i	<i>Provision under which the application is filed</i>	<i>U/S 151 of CPC</i>
ii	<i>Relief sought for</i>	<i>Permit the 1<sup>st</sup> defendant to file his written statement</i>
iii	<i>The date on which the application is filed</i>	<i>28.11.2024.</i>
iv	<i>Number of the application</i>	<i>XI</i>
v	<i>The date on which the objections are filed by different opponent</i>	<i>10.02.2025.</i>
vi	<i>The date on which the orders were passed on the said application</i>	<i>09.09.2025.</i>

When the case is posted for argument, the 1<sup>st</sup> defendant has filed this application.

### **ORDERS ON I.A.XI**

The applicant / defendant No.1 has filed this IA, U/S 151 of CPC and prays to permit him to file written statement by condoning the delay, in the interest of justice and equity.

2. This application is accompanied by an affidavit filed by the defendant No.1. The gist of the application averment is that he is aged 86 years and



due to the same he could not come to Kadur to contact his counsel and file written statement in-time. Leave is sought seeking to permit him to file the written statement after condoning the delay. If the application is allowed there will be no injury caused to the plaintiffs' side. If the application is not allowed then he will be put to irreparable loss and injury, great hardship and humiliation in his old age. Hence, prays to allow the application.

3. The opponent / plaintiff has resisted the said application by contending that the application filed by the 1<sup>st</sup> defendant is not maintainable either in law or on facts. The contents of the affidavits are all false and self-created by the 1<sup>st</sup> defendant by suppressing the material facts in order to have wrongful gain. The 3<sup>rd</sup> defendant has already filed his written statement on 09.08.2023 and the defendants No.1 and 2 have adopted the written statement filed by the 3<sup>rd</sup> defendant by filing the adoption memo on 09.08.2023. Hence, the question of again filing the written statement does not arise at all and hence, the written statement as well as the application for



permission to file the written statement itself is not maintainable. The 1<sup>st</sup> defendant by suppressing the said facts and by creating the false and concocted statement, has filed the written statement by mis-using the process of law in order to mislead the court. Hence, the written statement as well as application is liable to be rejected. Accordingly, sought to dismiss the application.

4. Heard on both sides.

5. The Points arise for my consideration is as follows;

1. Whether the applicant / defendant No.1 has made out grounds for permitting him to file his written statement at this stage?

2. What order?

6. My answer on the above points are as follows:-

Point No.1 - In the Negative;  
Point No.2 - As per final order  
for the following:-



### **REASONS**

7. **Point No.1**: The preset suit is filed seeking for the relief of partition and separate possession and for such other reliefs. The defendants No.1 to 3 have marked their appearance through their counsel Sri. KBN / Sri. PVN on 23.11.2022 and by filing IA No.VIII, U/S 151 of CPC on 09.08.2023 have taken leave to file their written statement, wherein, it is appaent that the 3<sup>rd</sup> defendant has filed his written statement and same was adopted by the defendants No.1 and 2 by filing a memo through their counsel to that effect. When already the written statement of 3<sup>rd</sup> defendant has been adopted as his own written statement by the 1<sup>st</sup> defendant under a memo, the question of permitting the 1<sup>st</sup> defendant to file the written statement once again does not arise at all. Therefore, the present application is devoid of merit and same is liable to be dismissed with costs. Accordingly, **the point No.1 under consideration is answered in the Negative.**



8. Point No.2: In view of the above findings on point No.1, the following;

**ORDER**

I.A.No.XI filed by the defendant No.1, U/S 151 of CPC is dismissed with costs of Rs.1,000/-.

The written statement filed along with IA No.XI, dated 28.11.2024 is ordered to be taken of the record. There shall be an endorsement in the said written statement to that effect.

(Dictated to the Stenographer on computer, corrected, initialed and then pronounced by me in open Court on this the 9<sup>th</sup> day of September -2025)

**Sd/-**

(IRFAN)  
Senior Civil Judge,  
Kadur.