

**ORDER ON I.A NO.II FILED BY THE
DEFENDANT.**

The plaintiff has filed the present suit seeking the reliefs of declaration and permanent injunction. Defendants No.1 to 5 have appeared before this Court and have filed an application under Section 151 of the CPC seeking permission to file their written statement by condoning the delay.

In the affidavit sworn to by Defendant No.3, it is stated that due to the non-availability of relevant documents and personal inconvenience, the defendants could not contact their counsel and furnish necessary instructions for the preparation of the written statement. It is further stated that the delay is neither intentional nor deliberate. The defendants contend that if the written statement is not taken on record, they will suffer irreparable loss and hardship. Accordingly, they have prayed for allowing I.A. No.2.

On the other hand, the learned counsel for the plaintiff has filed a detailed statement of objections contending that Defendants No.1 to 5 entered appearance by filing their vakalath on 15.02.2025. Thereafter, sufficient opportunities were granted to them to file their written statement. Despite the same, the defendants failed to file the written statement within the stipulated time. Subsequently, on 27.11.2025, they filed the present application seeking condonation of delay

and permission to file the written statement.

It is further contended that the application has been filed beyond the period of 120 days prescribed under law and that receiving the written statement at this belated stage would cause serious prejudice to the plaintiff and defeat the object of expeditious disposal of the suit. The plaintiff has also contended that the defendants have failed to show sufficient cause for the delay. In support of the said contention, reliance has been placed on the decision of the Hon'ble Apex Court reported in (2005) 4 SCC 480. It is submitted that the written statement has been filed after a delay of 285 days and that condoning such delay would defeat the very object of the provisions of the Code of Civil Procedure. Accordingly, the plaintiff has prayed for rejection of I.A. No.2 with costs.

Heard arguments from both sides, perused materials available on record. The following points would arise for the determination of this court.

The following point arises for consideration of this Court:

Whether Defendants No.1 to 5 have made out sufficient grounds to condone the delay in filing the written statement and to permit the same to be taken on record?"

My finding on the above point is in the Affirmative for the following:

REASONS

The records disclose that Defendants No.1 to 5 entered appearance through their counsel on 15.02.2025. Admittedly, the written statement has not been filed within the period prescribed under Order VIII Rule 1 of the Code of Civil Procedure. The present application has been filed seeking condonation of delay and permission to receive the written statement on record.

The defendants have explained the delay by contending that relevant documents required for preparing the written statement were not readily available and that due to personal inconvenience they could not contact their counsel and

furnish proper instructions. Though the reasons assigned are not supported by detailed particulars, it is specifically averred that the delay was neither intentional nor deliberate.

The plaintiff has strongly opposed the application on the ground that the written statement has been filed after a delay of 285 days and that acceptance of the same would prejudice the plaintiff and defeat the object of speedy disposal of civil cases. Reliance has also been placed on the decision of the Hon'ble Apex Court reported in (2005) 4 SCC 480.

It is well settled that the provision relating to the filing of a written statement is procedural in nature. In ordinary civil suits, the time limit prescribed under Order VIII Rule 1 CPC is directory and not mandatory. The object of the provision is to ensure expeditious disposal of cases; however, the same cannot be construed in a manner that would completely shut out the defence of a party unless the facts and circumstances clearly disclose

deliberate negligence or an attempt to protract the proceedings.

In the present case, there is no material on record to show that the defendants have deliberately withheld the filing of the written statement with an intention to delay the proceedings. Though there has been considerable delay, the dispute involved in the suit pertains to the reliefs of declaration and permanent injunction. The rights of the parties can be effectively adjudicated only after permitting them to place their respective pleadings and evidence before the Court.

If the written statement is not received on record, the defendants would be deprived of an opportunity to contest the suit on merits. On the other hand, any inconvenience likely to be caused to the plaintiff can be compensated by imposing reasonable costs. The ends of justice would therefore be better served by granting an opportunity to the defendants to contest the matter on merits rather than shutting out their defence on technical grounds.

Accordingly, this Court is of the considered opinion that the defendants have made out sufficient grounds for condoning the delay in filing the written statement, subject to payment of costs.

Hence, the point for consideration is answered in the Affirmative and proceed to pass following;

ORDER

I.A. No.II filed by Defendants No.1 to 5 under Section 151 of the Code of Civil Procedure is hereby allowed.

The delay in filing the written statement is condoned.

The written statement and objection to I.A No.1 filed by Defendants No.3 and memo filed by the Defendant No.1,3 4,and 5 are taken on record, subject to payment of costs of ₹200/-.

Call on for hearing on I.A No. I by:
22.06.2026.

Sd/-

(Thahakaleel K.A.)
III Addl. Civil Judge & JMFC Kadur.