

OS 89/15

ORDERS ON I.A No. 4

The defendant has filed application U/s 151 of CPC seeking permission to file written statement by condoning the delay in filing the same.

2. The plaintiff has filed objections to the application by contending that the defendant has not filed the written statement along with application U/o 9 rule 7 of CPC and among other grounds pray for dismissal of the application.

3. Heard.

4. This is a suit filed by the plaintiff against the defendant for declaration and permanent injunction. There was a delay of about 5 months in filing the written statement. If the application is allowed then the plaintiff will not be prejudiced. It's a fundamental principal that the matter should always be decided on merits. Though the defendant has not filed the written statement along with the application U/o 9 rule 7 of CPC, but on the said technical defect if the application is dismissed then the defendant suffered a lot which cannot be compensated in terms of money. If the application is allowed by imposing

cost that would meet the ends of justice. Hence I proceed to pass the following,

ORDER

IA No. 4 filed by the defendant U/s 151 of CPC is hereby allowed on cost of Rs.250/-.

In the result, the written statement filed by the defendant is taken on file.

Addl. CJ & JMFC, Kollegal.