

Case called out.

ORDERS ON IA FILED BY THE DEFENDANT NO.2
UNDER SEC. 151 OF CPC.

Counsel for the defendant no.2 filed IA no.5 under Sec.151 of CPC and prays to recall the order dated 13-09-2024 and sought permission to the defendant no.2 to file the written statement.

2. In support of the IA defendant no.2, filed affidavit and stated that she is the absolute owner of the plaint 'A' schedule property and the said property is not partible property amongs parties to this suit. It is stated that within reasonable time she has not filed the written statement. It is stated that in the 4th week of May 2025, she contacted her advocate, therein she came to know that she required to file the written statement.

3. It is stated that as per the instructions, she given information to her counsel to prepare the written statement and now the written statement is ready to file in

this case. It is stated that defendant no.2 is residing in the remote place where there is no network available to the phone, as such she could not able to contact her advocate. It is stated that due to lack of communication she could not contact her advocate as such she was unable to file the written statement within time.

4. It is stated that in order to adjudicate the issue effectively, it is essential to permit the defendant no.2 to file the written statement. It is stated that if the application is allowed no hardship or injustice is going to be caused to the other side. Further stated that if the application is rejected, it is going to cause irreparable loss and injury to the defendant no.2 which can not be compensated through any means. Hence prays to allow the IA no.5.

5. In spite of granting sufficient opportunities, counsel for the plaintiff not opted to file the objections to the IA.

6. Perused the IA and rest of the material particulars available on record. Below mentioned points arisen for my consideration.

POINTS

- 1) Whether the defendant no.2 made out grounds to consider the IA and grant the relief as prayed for ?
- 2) What order?

7. Heard counsel for both parties. Perused the IA and rest of the material particulars available on record. My findings to the above points is as hereunder.,

Point No.1:- In the Affirmative

Point No.2:- As per the final order
for the following.,

REASONS

8. **Point No.1:-** This application is filed by the defendant no.2 and sought permission to file the written statement.

9. Plaintiff has not filed any objections to IA. There is no resistance from the plaintiff to the relief claimed by the defendant no.2 through this IA.

10. The suit has been filed by the plaintiff against defendants and sought for the relief of partition and separate possession with respect of the plaint 'A' schedule property. Admittedly within statutory period of time, defendant no.2 has not filed written statement. Now defendant no.2 came up with this IA and submits they are ready with the written statement and sought permission to file the same. By taking note of non filing of the objections to the IA as well the nature of the suit, this Court opines that it is essential to permit the defendant no.2 to file the written statement in order to adjudicate the real dispute between parties to this suit, otherwise it would lead to deprivation of right to the

defendant no.2 to contest this matter effectively. Defendant no.2 made out grounds to consider the IA and grant the relief as prayed for. With all these discussion, I proceed to answer point no. 1 in the affirmative.

11. **Point No.2:-** As discussed above in Point No.1, I proceed to pass the following.,

ORDER

IA no.5 filed by the defendant no.2 under Sec.151 of CPC is hereby allowed on cost of Rs.200/-

Delay condoned. Defendant no.2 is permitted to file the written statement.

Written statement filed by the defendant no.2 which is annexed with the IA is taken on record subject to payment of cost.

Counsel for the defendant no.2 filed memo and adopted the contents of the written statement as objections to IA no.2.

matter posted for examination of the parties under Sec. 89 of CPC and to hear on IA no.2.

call on 27-09-2025

**Add. Sr. Civil Judge & JMFC.,
Puttur.**