

**IN THE COURT OF PRL. CIVIL JUDGE &
J.M.F.C. AT BELTHANGADY.**

Present:-
Sri.Sandesha.K.,MA.LLB
(Prl. Civil Judge & J.M.F.C., Belthangady)

Dated: 14th Day of October 2025

ORIGINAL SUIT No.85/2024

Plaintiff:

Yashwantha G Baliga,
S/o Ramadas Baliga,
Aged about 57 years,
R/at D.No.III-95, Sai Gokul,
Main road, Belthangady Town,
Belthangady Village & Post,
Belthangady Taluk.

(By: Sri.Y.S.B., Adv.)

-.V/S:-

Defendants:

1. Kalaimar, S/o Govindan,
Aged about 55 years,
ASI of Bantwal Police Station,
Now Posted to Karkala,
Rural Police Station, Karkala,
Karkala village & Post,
Karkala Taluk.
2. Ravi B.S S/o Sanne Gowda,
Aged about 43 years,
Circle inspector of Police,
Bantwala Now Placed as Circle inspector,
Uppinangady Police Inspector,
Uppinangady Police Station,
Uppinangady Post, Puttru Taluk.

(Rep.by. Sri. A.S.K. Adv.)

1.	Provision under which application filed.	Under section 148 and 151 of CPC
2.	Relief sought	Pray for received the written statement after condoning the delay

3.	The date on which application filed.	01.06.2025
4.	Number of application	IA No.I
5.	The date of which the objection filed by the respondent /plaintiff	04.07.2025
6.	The date on which the order were passed on the said application	14.10.2025

**ORDERS ON I.A.No.I FILED BY THE
DEFENDANT UNDER SECTION 151 OF CPC**

The defendant has filed this application U/s 148& 151 of CPC pray for receiving the written statement after condoning the delay.

2. At the stage of plaintiff arguments on merits, defendant has filed this application to received the written-statement after condoning the delay.

3. In the affidavit filed in support of application, the defendant stated that, this suit was posted to 11.11.2024 filing their written-statement and they are intending to file the same on that day. On 11.11.2024 himself and the 2nd defendant were busy in his official duties and as such, he could not meet his advocate for giving him instructions to file his written-statement in time. Only in the 3rd week of April 2025, he could meet his advocate for preparing and filing their written-statement. When he met his advocate he informed him that as he did not file his written-statement in the above suit on 11.11.2024, this court was pleased to note as written-statement of defendants not

filed. Afterwards their advocate has prepared his written-statement and the same is signed by him. His failure to file the written-statement within the time stipulated by this court was neither intentional nor deliberate. They have got genuine, valid and lawful defenses to plead in this suit. Non filing of the written-statement was not intentional, but was due to unavoidable circumstances as they have stated earlier. If an opportunity is not given to him to file his written statement in this suit. Plaintiff will suffer irreparable injury, loss and hardship. Hence this application.

4. The learned counsel for plaintiff has filed objection to I.A No.I and stated that, defendant have not given any reasonable and specific reason and explanation for not filing written-statement during the period of statutory period of 90 days and even laps of more than statutory period and after recording the evidence of plaintiff in the above case, the defendants have not opted file their written-statement till the matter is posted for arguments. Now at the belated stage, the defendants have filed this application with vague and non specific reason stating that, the matter was posted for written-statement on 11.11.2024 and on that day they were busy in their official duty without giving reasonable ground and explanation for non filing of their written-statement during the period previous statutory period of more than 90 days. As the defendants are working police official, they ought to have vigilantly followed the rules and procedure and without giving sufficient any reasonable

explanation for each days delay for not able to file their written statement during the statutory period of 90 days and subsequently, based on the vague and formal application as of retinue filed by them with false and untenable averments contrary to the actual facts, their application cannot be and entitle to consider favourably. Hence pray for dismiss the applications with exemplary cost.

5. Heard the arguments learned counsel appearing for both parties and perused the material on records.

6. The following points would arise for court consideration.

1. Whether the I.A No.I filed by the defendants U/s 151 of CPC is deserves to be allowed or not?

2. What order?

7. Answer to the above points are as under:

Point No.1: In the ***“Affirmative”***

Point No.2: As per the final order

for the following:

REASONS

8. Point No.1:-It is settled principle of law that procedural Law should not be the mistress of justice, but should be a hand maiden of justice. In other words, the procedure should be enforced to meet the ends of justice and not to deprive any party of his rights.

9. In present case on hand, the defendants sworn to that, due to their busy work they have not filed written-statement in time.

10. The plaintiff has filed this suit for damages. After the institution of suit as contemplated under law the suit summons to came to the issued to the defendants. In pursuance of suit summons, the defendants have appeared before the court through their counsel on 20.08.2024, but they could not filed written statement in time. Hence written statement of defendants taken has not filed on 11.11.2024. Thereafter plaintiff has lead his evidence and case is posted for plaintiff arguments on merits. At this stage, defendants have filed this application for received the written-statement after condoning delay.

11. The submission of the defendants counsel is, due to the busy official duties they could not meet their counsel to give instruction to file their written statement in time. If the application is allowed, no hardship and injury caused to the plaintiff otherwise it will lead multiplicity of proceedings and causes injury to the defendants. Hence pray for allow the application.

12. The submission of plaintiff counsel is, defendants have not filed written-statement within statutory period. The reason assigning in the affidavit is vague and there is no specific reason for non filing of written-statement. Defendants are police official, they ought to have vigilante and follow rules and procedure and without giving sufficient and reasonable explanation for each day for not able to file written-statement during the statutory period

of 90 days, hence pray for dismiss the applications with exemplary cost.

13. Upon going through the contents of the affidavit filed in support of I.A No.I it depict that, defendant No.1 and 2 are the police official. As already stated above, suit summons served to defendant No.1 and 2 on 20.8.2024. Defendants are appeared before the court through their counsel, but they have not filed written-statement in time. Therefore, written-statement of defendant No.1 and 2 taken as not filed and case is posted for plaintiff evidence. Plaintiff is rightly point out that, defendants have not given proper reason for non filing of written-statement within time. But if the application is allowed, no hardship caused to the plaintiff. If the application is rejected it will lead multiplicity of proceedings.

14. It is relevant to note hear that the decision in Writ Petition 202408/2015(GM): CPC between Shabana V/s Krishnappa the apex court held that: From the sequence as noticed above, there can be no doubt that there was delay in filing the written statement. Even if that be the position, the court below ought to have kept in view the position of law declared by the Hon'ble Supreme Court that the time frame provides is only directory and not mandatory in appropriate case court below could have condoned the delay and accepted the written statement. In the present case on hand it is seen that the suit was instituted on 02.04.2024, if that to be position, even though there was some delay in filing the written statement the court ought to have condoned the delay

subject to terms and the written statement should have been taken on record.

15. The principle laid down in the above said ruling aptly applicable to be present case. Therefore this case there is a sufficient and reasonable ground to condoned delay for filing written statement and permitted to defendant to contest the suit.

16. If the present applications are allowed, no hardship or injury would be caused to be plaintiff. On other hand, if it is rejected, the defendants would be disproved of their defence and it would lead to multiplicity of proceedings. It also would amount to punishing the defendant for their ignorance. Therefore, no reason to reject the prayer of the defendants. Accordingly this court answered Point No.1 in the **affirmative**.

17. Point No.2:- In view of discussion made supra this court proceed to pass the following:

ORDER

*I.A.No. I filed by the defendants
under section 151 of C.P.C. is hereby
allowed subject to cost of Rs. 1,000/-
and written statement filed by the
defendants taken on record.*

(Dictated to the stenographer, directly on the computer, corrected and signed by me and then pronounced in the Open Court on this 14th day of October 2025)

(Sandesha. K.)
Prl. Civil Judge & JMFC.,
Belthangady