

ORDER ON IA No.XVII

This is an application filed by Counsel for defendant No.18 under Order 8 Rule 10 R/w Section 151 of CPC seeking permission to file written statement of defendant NO.18.

2. In support of the application, the defendant No.18 has sworn to an affidavit, wherein it is stated that despite he put his appearance earlier, but he could not file his Written statement in time due to rush of work. Hence, now defendant No.18 has prayed to allow the present application and permit him to file his Written statement and thereby to contest this case.

3. The counsel for plaintiff filed objections to the application contending that the defendant No.18 is lawyer and despite it he willfully did not file his Written statement in time. It is further contended that the defendant No.18 appeared on 23-01-2019 and since then, till date he took nearly four years time to file his Written statement and no convincing reasons are mentioned in the affidavit as to why the delay is caused. Therefore amongst other grounds, the

plaintiff prayed to reject the application with cost.

4. I have heard both side on IA No.XVII and perused the material available on record.

5. The plaintiff has filed this suit seeking partition in the suit properties. The defendant No.18 is a purchaser of site farmed in one of the suit land. The defendant No.18 has claimed that he is a bonafide purchaser for valuable consideration of the said site and being so, the sale deed executed in his favor by the defendant No.10 is binding on the plaintiff. This being the stand of the defendant No.18, if the defendant No.18 is not permitted to file his Written statement and thereby to contest this case, under such circumstances, he would be put to great hardship as he would be deprived of his right to defend this case. So far as the grievance of the plaintiff is concerned regarding delay caused in filing this Written statement, he can be adequately compensated if the application is allowed on cost. Further, the stage of the case is for

cross of PW.1. Therefore, if the application is allowed, no much harm would be caused to the plaintiff. Hence for the above stated reasons, I proceed to pass the following :

ORDER

The IA No.XVII filed by the defendant NO.18 seeking permission to file his Written statement is hereby allowed on cost of Rs.1,000/-.

Consequently the following additional issues No.3 is framed as under:

Whether the defendant No.18 proves that the suit is bad for non-joinder of necessary parties ?

IV Addl. Senior Civil Judge,
& J.M.F.C.,DHARWAD.

For further chief of PW.1 if any or for
cross of PW.1, call on

