

14.11.2025

For Orders

ORDERS ON I.A.NO.I

The learned counsel for defendant filed I.A. No.I under Order VIII Rule 1, 9, 10 R/w Sec.151 of C.P.C., prayed to set aside the order of filing the Written statement as not filed and permitting the defendant to file

Written statement in the interest of justice and equity.

2. *In the annexed affidavit the defendant averred that, earlier the matter was posted on 05.04.2025 for filing of WS. Since some of the records were not at all available, she has told her advocate to take the date by filing an application seeking the extension of time to file her WS. The counsel for defendant was attending the I Addl. District and Sessions Judge Court, Hubballi on that day. By that time he came to this Court the case was called out and this Court was pleased to note her absence and also the absence of her advocate and pleased to hold the WS of her is taken as not filed and adjourned the matter to 09.06.2025. On the same day she has enquired with her advocate and who has informed that, the WS is taken as not filed and matter is posted for plaintiff evidence. She enquired what is the procedure to file the WS it was advised to her that an application is to be filed request the Court to recall the order for which affidavit of her is required. She has given instruction to her advocate to draft the WS. Non filing the WS*

on the appointed day is not deliberate nor intentional. If recall the order dated: 09.04.2025 of holding the written statement is taken as not filed not loss or hardship will be caused to the plaintiff. Hence, prayed to allow the I.A.

3. On the other hand, the counsel for the plaintiff filed objections and contended that the application filed by defendant is not tenable either in law or on facts of the case. The reasons assigned in the affidavit are neither valid nor good grounds to allow the application. The alleged grounds urged in the affidavit are not comes under purview and scope of Order VIII Rule 1, 9, 10 of CPC. Hence, the same is deserves to be dismissed.

4. Heard arguments.

5. The points for consideration are:

- 1. Whether the reliefs sought by the defendant under the application, can be granted ?*
- 2. What order ?*

6. The above point No.1 is answered in the Affirmative, and point No.2 as per final order, for the following:

REASONS

7. **Point No.1:** *This is the suit filed by the plaintiff against the defendant for the relief of declaration and permanent injunction in respect of suit schedule property. When the matter has been set down for evidence, the counsel for defendant filed present application seeking permission to file her written statement.*

8. *On perusal of the entire order sheet it is noticed to the court that, summons to defendant served personally and she appeared before the Court through her counsel on 04-03-2025. Thereafter, sufficient opportunity has been granted to her for filing written statement, though she never filed extension application nor written statement hence, matter was set down for plaintiff evidence and later she came up with the present application without sufficient reason. Anyhow, the above said application is out of 90 days from the date of service of summons to the defendant. Hence, in the interest of justice and equity application is deserves to be allowed on cost otherwise the defendant will be put to*

great hardship without contest the case. Hence, I answer point No.1 in the Affirmative.

9. **Point No.2:-** *In view of the above said reasons, I proceed to pass the following:*

ORDER

I.A.No.I filed by the learned counsel for the defendant under Order VIII Rule 1, 9, 10 R/w Section 151 of CPC is hereby allowed on cost of Rs.200/-

Resultantly, defendant is permitted to file written statement and statement of defendant taken on record.

For Issues

call on 24-11-2025

sd/-

*I Addl. Senior Civil Judge and JMFC.,
Hubballi.*