

18.11.2025

ANNEXURES

i	Provision of application	Section 148 &151 CPC
ii	Relief sought	Leave to submit written statement.
iii	The date of application	27.06.2014
iv	Number of the application	I.A.No.2
v	The date of objections	nil
vi	The date of order	18.11.2025

ORDERS ON I.A.No.2

The application is coming for disposal under the provisions of Section 148 & 151 of CPC, wherein the defendant no. 1 and 5 have sought the leave to submit their written statement.

SYNOPSIS:

2. The plaintiff is before this court seeking to part with her rightful share in the suit property. After the inception of the suit the defendants although tendered their appearance remained absent and failed to submit their written statement. Hence their written statement was taken as not filed and the suit has proceeded ex parte.

3. Thereafter the suit has been decreed on 36.02.2014. The defendant no. 1 and 5 have assailed the same before the Hon'ble Appellate Court in RA No. 101 of 2014. The Hon'ble Appellate Court

by its order dated 19.03.2018 set aside the decree of this Court and remanded the matter back to this Court for fresh consideration and also with a direction to accord an opportunity to defendant no. 1 and 5 to tender their say on IA No. 2 and also an opportunity to cross examine PW1.

4. Subsequent to this, this matter has been pending for steps and thereafter the suit has been dismissed for non-prosecution. Subsequent to this the petitioner has instituted a petition Civil Miscellaneous No. 3/2021 for re-instatement of this suit to its original file. The petition has come to be allowed 17.04.2025 wherein this court has been pleased to reinstate this suit to its original file. Post order the suit has been reinstated and is coming for consideration of the IA.

5. The IA No. 2 is filed by the defendant no. 1 and 5 seeking the leave of the court to submit written statement. It would be pertinent and necessary that the chronology of the events be taken into consideration which are as follows.

Date	Event
16.09.2011	Date of institution of the suit
18.10.2011	summons to defendant no. 1 served and is placed ex parte.
25.02.2013	Defendant no. 1 & 5 have tendered appearance .
15.04.2013	WS of the defendant no. 1 and defendant no. 5 is taken as not filed
27.06.2014	case advanced by the D1 and D5 and application for IA No. 2 is filed
30.06.2014	suit is decreed
19.03.2018	RA NO. 101/2014 allowed
06.10.2018	Suit reinstated

29.08.2019	Suit DNP
17.04.2025	Misc. No. 3/2021 allowed
05.06.2025	Suit reinstated

6. Having given consideration to the relationship and the nature of the suit, the suit is one for partition simpliciter and the defendant has raised substantial issues of erstwhile partition, defenstrating the claim of the plaintiff over the suit properties. The present nature of partition would also be subject to un-codified law.

7. Rival sides have contributed equally for the protraction of the litigation dating back from the year 2011. That however owing to the relationship and the nature of the suit and also the contentions of the rival sides this Court opines that the defendant no. 1 and 5 do deserve an opportunity as did the Plaintiff, but are also liable for the cost. Hence, in the result the following;

ORDER

*The I.A.No.2 filed by the defendant
No.1 & 5 is hereby allowed on cost of Rs.
1000/- to be paid by next date of hearing.*

*The written statement of D1 and % is
hereby taken on record.*

*For issue and for compliance c/o.
28.11.2025*

(Dictated to the stenographer, transcribed and typed by her the transcript revised, corrected and then pronounced by me in the Open Court on this **18.11.2025**).

(Naveen F. Dsouza)
Civil Judge and J.M.F.C.,
Navalgund.