

**ORDERS ON I.A. FILED UNDER ORDER VIII RULE 1(3) OF
CPC AND ANOTHER I.A. UNDER SECTION 151 OF CPC BY
DEFENDANTS NO.1 TO 3 ON 25.11.2022.**

The defendants no.1 to 3 have filed the present 4 applications seeking permission to receive the written statement by recalling order dated 15.11.2022 taking their written statement as not filed.

2. In the affidavit filed in support of the applications it is deposed that the defendants could not secure relevant documents so as to provide necessary instructions to their advocate for the purpose of their written statement. Hence, there is delay in filing written statement. Meanwhile the written statement of defendants is taken as not filed. If the application is allowed then no prejudice or hardship will be caused to the plaintiff. On the contrary, severe prejudice and hardship will be caused to the defendants if the application is rejected. Hence, it is prayed for allowing the applications and to receive written statements of defendants on record.

3. The applications filed by defendants are opposed by the plaintiff. The reasons assigned for delayed submission of written statement is denied and it is contended that the defendants have filed I.A to harass the plaintiff so as to avoid the legal rights of the plaintiff and to drag the matter.

4. Having heard both sides and considering the entire materials placed on record it is noticed that this is a suit for the relief of decree of perpetual injunction. The plaintiff no.1 is none other than the son of defendant no.1 and defendant no.3 is none

other than the brother of plaintiff no.1. Hence, this is a dispute entering between the members of the family. The written statement of defendants are taken as not filed as per order dated 15.11.2022. The present applications are filed on 25.11.2022. Hence, there is no inordinate delay on the part of defendants in making applications. If the application is rejected on technical reasons then the defendants will be condemned unheard which is not the purpose of fair trial. In order to decide all the questions in controversy between the parties the written statement of defendants is required to be taken on record. Hence, this Court deems it appropriate to receive written statement of defendants by allowing the applications through imposing of suitable cost. Hence, I proceed to pass the following;

ORDER

The I.A. filed by defendants no.1 to 3 under Order VIII Rule 1(3) of CPC., are allowed on cost of Rs.300/- each.

The I.A. filed by defendants no.1 to 3 under Section 151 of CPC., are allowed on cost of Rs.300/- each.

The written statement of defendants no.1 to 3 are taken on record.

The order dated 15.11.2022 is hereby recalled.

The defendants no.1 to 3 are directed to pay cost as imposed above to the plaintiff.

*Issues are framed. For plaintiff
evidence, call on 17.02.2023.*

(Dictated to the stenographer, transcribed and typed by her, the transcript revised, corrected and then pronounced by me in the Open Court on this **24.01.2023**).

(Santhosh M.S.)
Civil Judge and J.M.F.C.,
Navalgund.