

i.	Provision under which the application is filed	U/Sec.151 of CPC
ii	Relief sought for	To set aside the order taking objection to the petition as not filed and permit the respondent No.2 to file objection.
iii	The date on which the application is filed	15.10.2025
iv	Number of the application	II
v	The date on which the objection is filed by different opponent	03.12.2025
vi	The date on which the order were passed on the said application	16.04.2026

### **ORDERS ON I.A.No.II**

The counsel for the respondent No.2 has filed IA No.II under Sec.151of CPC to set aside the order taking objection to the petition as not filed and permit the respondent No.2 to file objection.

2. The counsel for the petitioner has filed objection to the aforesaid application.

3. Heard learned counsel for the petitioner and respondent No.2.

4. After perusal of records of the case, following points would emerge for my consideration:

1) Whether the respondent No.2 has made out grounds to permit him to file objection?

2) What order?

5. My answer to the above points are as under:

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

**Point No.2:** As per final order

for the following:

### **REASONS**

**6. POINT No.1:** In the memorandum of facts appended to the application, the counsel for the respondent No.2 submitted that when the case is stands for filing objection, on that day in view of ill-health of the respondent No.2, it was not able to file the objection. As such, this Hon'ble court has taken the objection as not filed. The non-filing of the objection in the previous date is not intentional one. Hence, the counsel for the respondent No.2 prays to set aside the order taking objection of the respondent No.2 as not filed and permit him to file objection. Hence, the counsel for the respondent No.2 prays to allow the IA No.II.

7. Per contra, the counsel for the petitioner filed objection to the aforesaid application. In the objection, the petitioner contented that the application filed by the respondent No.2 is not maintainable as the application is not filed under relevant provision of law. Hence, the application is not maintainable. It is contended that, there is no single reason has been stated why

delay is caused and why he is not participated in the proceedings. When there is no reason in the application, court cannot allow the frivolous application. It is contended that, once the matter has been heard and posted for argument, nothing is required to be done by the court except pronounce the judgment. It is contended that, in spite of sufficient opportunity has been given to the respondent No.2 to file objection has not availed the opportunity at appropriate time. It is contended that, if there is abuse of process of court the court cannot permit to harass any party. Hence, counsel for the petitioner prays to dismiss the IA No.II.

8. In view of rival contentions put forth by both the parties, now let me see whether the respondent No.2 has made out grounds to allow the IA No.II.

9. The order sheet maintained in the case reveals that when the case is posted for argument, the respondent No.2 has filed IA No.II seeking permission of the court to file objection. The petitioner has filed the present petition against the respondents for the relief of setting aside the judgment and decree passed in OS No.221/2015 dated 11.11.2019. After service of notice the respondent No.2 appeared through his counsel. In spite of sufficient time granted, the respondent No.2 not filed objection and as such, the objection of the respondent No.2 is taken as not filed and case is posted for petitioner evidence. After the petitioner examined as PW1, case is posted for argument. The

respondent No.2 has filed present application seeking permission of the court file the objection. As per the reasons mentioned in the memorandum of facts appended to the application since the respondent No.2 was not feeling well, objection is not filed and as such, this court has taken the objection of the respondent No.2 as not filed. As per provision of CPC objection has to be filed within reasonable time from the date of service of notice. If the respondent fails to file objection within the reasonable time, he shall be allowed to file the same on such other day as may be specified by the court, for the reasons to be recorded in writing. The contention of the petitioner is that the respondent No.2 has not filed application under the relevant provision of CPC. The respondent No.2 filed IA No.II U/sec.151 of CPC. If there is no specific provision seeking to recall the order taking objection of the respondent No.2 as not filed, Sec.151 of CPC is the relevant provision seeking to set aside the order taking objection of respondent No.2 as not filed. Accordingly, the respondent No.2 has filed IA No.II U/Sec.151 of CPC seeking to set aside the order taking objection of respondent No.2. Therefore, the contention raised by the counsel for the petitioner that, the application is not filed under the relevant provision of CPC holds no water. As per the reasons assigned in the memorandum of facts, since the respondent No.2 was not feeling well he unable to file objection to the petition in time. As such this court has taken the objection of respondent No.2 as not filed. However there is delay in filing the objection to the petition. The said delay can be condoned by

imposing suitable costs. Therefore, this court is of the opinion that, the respondent No.2 has made out grounds to permit him to file objection to the petition. ***Hence, point No.1 is answered in the Affirmative.***

**10. Point No.2:** For the foregoing reasons and discussions made supra, I proceed to pass the following:

**ORDER**

I.A.No.II filed by the respondent No.2 U/sec.151 of CPC is allowed on cost of Rs.600/-. Order taking objection of respondent No.2 as not filed is set aside and the respondent No.2 is permitted to file objection.

**Prl.Civil Judge & JMFC, Belur.**