

i.	Provision under which the application is filed	U/Sec.151 of CPC
ii	Relief sought for	To set aside the order taking his written statement as not filed and permit him to file written statement
iii	The date on which the application is filed	24.03.2025
iv	Number of the application	III

v	The date on which the objection is filed by different opponent	10.09.2025
vi	The date on which the order were passed on the said applications	04.03.2026

ORDERS ON I.A.No.III

The defendant has filed IA No.III under Sec.151of CPC to set aside the order taking his written statement as not filed and permit him to file written statement.

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

3. Heard learned counsel for the plaintiff and defendant.

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

1) Whether the defendant has made out grounds to permit him to file written statement?

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 defendant submitted that the plaintiff has filed present suit against the defendant for permanent injunction. In the case, the plaintiff is requires to file written statement and objection. At that time, since plaintiff and defendant informed that they are compromising the case and since the documents are not available in time, it is not able to file the written statement and objection in time. Hence, counsel for defendant prays to allow the IA No.III.

7. Per contra, the counsel for the plaintiff filed objection to the aforesaid application. In the objection, the plaintiff contented that the application filed by the defendant is not maintainable neither under the law, nor on the facts of the case. In the affidavit appended to the application no sufficient grounds have been made out and hence, the application brought by the defendant is liable to rejected. It is contended that, the plaintiff filed suit for permanent injunction and the court has granted temporary injunction on the interim application filed in this suit. Even thereafter also the defendant has got appointed the counsel and filed the written statement without attending the court. It is contended that after completion of plaintiff side evidence the defendant has filed present false application after laps of 3 years. Hence, the plaintiff prays to dismiss the IA No.III.

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

9. The order sheet maintained in the case reveals that when the case is posted for further chief of PW1, the defendant has filed IA No.III seeking permission of the court to file written statement. The plaintiff has filed the present suit against the defendant for the relief of permanent injunction in respect of suit schedule property. After service of summons the defendant No.1 appeared through his counsel and filed vakalath. In spite of sufficient time granted the defendant No.1 not filed written statement and as such, the written statement of defendant No.1 is taken as nil and case is posted for plaintiff evidence. After the plaintiff examined as PW1 and posted for further chief examination, the defendant No.1 has filed present application seeking permission of the court to file the written statement. As per the reasons mentioned in the memorandum of facts appended to the application since the defendant No.1 informed that he will compromise the case with the plaintiff, written statement is not filed and as such, this court has taken the written statement of defendant No.1 as not filed. As per order VIII Rule 1 of CPC, the written statement has to be filed within 30 days from the date of service of summons. If the defendant fails to file written statement within the said period of 30 days, 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. As per the judgment of Hon'ble Apex Court in Selam Bar Association, provision of order VIII Rule 1 of CPC is directory and not mandatory. Therefore, since the defendant intends to compromise the case, he unable to file the written statement in time. Therefore, this court has taken the written statement of defendant as not filed. The defendant has made out grounds to allow him to file written statement. However, there is some delay in filing written statement. The said delay can be condoned by imposing suitable costs which meets the ends of justice. Hence, this court is of the opinion that the defendant has made out grounds to permitted to file written statement. ***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.III filed by the defendant U/sec.151 of CPC is allowed on cost of Rs.200/-. Order taking written statement of defendant as not filed is set aside and the defendant is permitted to file written statement.

Prl.Civil Judge & JMFC, Belur.