

IN THE COURT OF CIVIL JUDGE AND JMFC AT
HOLENARASIPURA

Present:- Sri. Chandrashekhara.P.Diddi, B.A., LL.B,
Civil Judge and J.M.F.C,
Holenarasipura.

Dated this the 16th day of March, 2016

O.S.No.143/2015

Between

Balachandra : Plaintiff

(By Sri.J.U.R.,Adv.,)

V/s

Ramachandra : Defendant

(By Sri.A.T.V.,Adv.,)

ORDERS ON IA-V

Ramachandra : Applicant/Defendant

V/s

Balachandra : Plaintiff

ORDERS ON IA-V

The defendant has filed IA.No.V U/s 151 of C.P.C seeking permission to file the written statement.

2. In the accompanying affidavit of IA.No.V the defendant submitted that the plaintiff has filed the suit for permanent injunction. After service of summons he has engaged the advocate. There after he has not filed the written statement. Due to non availability of

document he has not met his advocate and not given instruction drafting the written statement. Therefore there is a delay in filing the written statement. Hence prays for condonation of delay in filing the written statement.

3. The plaintiff counsel present and submits that, the application may be allowed.

4. Heard the argument of both the counsels.

5. The point that arises for my consideration is as follows.

1. Whether the application filed by the defendant is deserves to be allowed and what order?

6. I answer the above point is as follows.

Point No.1:- In the affirmative.

as per the final orders for the following reasons.

REASONS

7. **Point No.1:-** I have gone through the order sheet. In this case the suit summons served to the defendant and the advocate appeared on 03/07/2015. There after the defendant has not filed the written statement. Hence the written statement of the defendant taken as not filed on 03/10/2015. On perusal of the order sheet it reveals that the plaintiff has filed the application for seeking extension of time for

filing the written statement. This court has allowed the application. In spite of that also the defendant has not filed the written statement. Later on the plaintiff has filed this application on 11/02/2016. The defendant ought to have filed the written statement within 30 days from the date of service of summons. Hence there is a delay of more than 4 months in filing the written statement. On the sole ground the application cannot be rejected. Further the plaintiff himself submitted that the application may be allowed. As the defendant has filed this application after a lapse of more than 4 months the application is liable to be allowed on cost. Accordingly I answer the above point in the affirmative. For the above stated reasons I proceed to pass the following order.

::O R D E R::

IA. No.V filed by the defendant U/s 151 of C.P.C is hereby allowed on cost of Rupees.300/- payable to the plaintiff.

Subject to payment of cost, the written statement filed by the defendant is taken on record.

(Dictated to stenographer and transcribed by her revised and corrected by me then pronounced in the open court dated this 16th day of March, 2016)

**(Chandrashekhara.P.Diddi)
Civil Judge and J.M.F.C,
Holenarasipura.**