

ORDER ON APPLICATION FILED UNDER
SECTION 151 OF CPC

The defendant Nos.6 and 7 filed this application under Section 151 of C.P.C. seeking permission to file written statement.

2. In the affidavit annexed to the application it is stated that, the plaintiff has filed this suit seeking the relief of declaration and permanent injunction. The main reason for not filing the written statement in time is the pressure of work. Further, as no other official was posted in the place of defendant No.7 and no action had been taken by the PDO before defendant No.7 was deputed to the present post, there has been a delay in filing the written statement. The said

delay is not intentional. If the application is not allowed, the applicant would be put to irreparable loss and injury. On these grounds, it is prayed to allow the application.

3. The plaintiff has filed objections to this application by contending that, this application has been filed only with the intention of troubling the plaintiff and to prolong the matter. After 4 years from the date of institution of this suit, this application has been filed. Hence, the said application is not maintainable. Eventhough, the receipt of summons by the court is within the knowledge of these defendants, they have not filed written statement despite lapse of these 4 years. This application has been filed only to trouble the beneficiaries of Grant of sites. On these grounds, it is prayed to dismiss the application.

4. Heard argument of the counsel appearing for both the parties. Perused entire material on

record.

5. Perusal of the entire record shows that, the plaintiff has filed this suit on 23.03.2021 seeking the relief of declaration and permanent injunction. On 22.04.2021 itself the defendant Nos.6 and 7 had entered appearance through their counsel. However, thereafter despite giving sufficient opportunity, these defendants have not filed written statement. Hence, by virtue of the order dated 05.01.2022, the written statement by these defendants taken as not filed. These defendants have come up with this application when the matter stood posted for further chief examination of PW1. Therefore, by considering these aspect, it clearly shows that, there is delay in filing the written statement. The plaintiff has also raised several objections to this application. However, this Court is of the opinion that, this being the trial Court has to give fullest opportunity to both the parties to put forth their case. If this application is not allowed and the defendant

Nos.6 and 7 are not allowed to file written statement, it may leads to multiplicity of proceedings and in turn it will cause delay in disposal of this case. No doubt, there is delay in filing the written statement. However, this Court is of the view that, the application filed by the defendant Nos.6 and 7 has to be allowed in the interest of justice and equity. Hence, the applicant has made out grounds to allow the application. With these observations, this Court proceed to pass the following;

:ORDER:

The I.A.No.1 filed by the applicant under Section 151 of C.P.C. is hereby allowed.

The defendant Nos.6 and 7 are permitted to file written statement.

*For filing written statement by defendant Nos.6 and 7 by-
01.12.2025.*

(SMT. CHETHANA)

Prl. Civil Judge & J.M.F.C.,
Holenarasipura.

