

KAHS810009692024



**IN THE COURT OF C/C I ADDL CIVIL JUDGE AND
JMFC., SAKALESH PURA**

:-Present:-

SRI LAKSHMI NARASIMHA R.V, B.A.L., L.L.B.,

C/c I Addl. Civil Judge & JMFC., Sakaleshpura

Dated this day the 10th day of March, 2026

O.S. NO.108/2024

Plaintiff : Sri. Hemanth Yale

V/s

Defendants : Sri. Thammegowda and others

IA NO.III

Applicant : Sri. Thammegowda and others

V/s

Opponents : Sri. Hemanth Yale

**ORDERS ON IA NO.III FILED BY DEFENDANTS U/O. VIII
RULE 1(3) R/W SECTION 151 OF CPC.,**

This application is filed when the matter is posted for arguments. The Defendants have filed the present application



U/o.VIII Rule 1(3) of CPC praying this court to permit him to file the written statement and contest the suit.

2. In the affidavit, defendant No.1 has stated that the plaintiff has filed the present suit for the relief of permanent injunction. Due to their family issues, they could not contact his counsel in time and file the written statement. As such, the written statement of defendants is taken as nil. If the application is not allowed, they would put to irreparable loss and injury. Hence prayed to allow the application.

3. The plaintiff has filed objections to the application and contended that defendants have appeared before the court on 01.06.2024 and filed vakalath. Whereas, they not filed any written statement inspite of sufficient opportunity. As per amendment to CPC, the defendants have to file written statement within 90 days. Whereas, they have failed to do so. Hence, they cannot file written statement at this stage. The



Defendants have filed this application only to harass the plaintiff.

Accordingly, prayed to dismiss the application.

4. Heard arguments and perused the records. The learned counsel for plaintiff has relied upon a decision report in (2005) 4 SCC 480.

5. The following points would arise for the determination:

1. Whether the present application filed by defendants deserved to be allowed?

2. What order?

6. The findings on the above said points are under:

Point No.1 : In the *Negative*

Point No.2 : As per final order,
for the following;

REASONS

7. **Point No.1** :- The plaintiff has filed the present suit for the relief of permanent injunction against the defendants. It is to note here that defendants have appeared before the court



through his counsel on 01.06.2024. Whereas, inspite of sufficient opportunity, they have failed to file the written statement. As per amendment of Order VIII Rule 1(a) of CPC denotes that ***“Provided also that where the defendant fails to file the Written Statement within the said period of thirty days, he shall be allowed to file the Written Statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the Written Statement and the Court shall not allow the Written Statement to be taken on record”***.

8. Keeping in view of the above provision, it is clear that the defendants shall not be allowed to file written statement later



than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendants shall forfeit the right to file the Written Statement and the Court shall not allow the Written Statement to be taken on record. On perusal of the records, defendants have appeared before the court on 01.06.2024. They have intended to file written statement on 13.02.2026, which is later than 120 days. Hence, in view of the amendment, the word shall not be is also coupled with the word forfeiture of right to file written statement. Hence, defendants have forfeited their rights to file the written statement. Hence, this court is opinion that the application cannot be allowed and written statement cannot be taken on record. Accordingly point No.1 is answered in the *Negative*.

9. Point No.2 :- For the above discussed reasons, this Court proceeds to pass the following;



ORDER

Application No.3 filed by the defendants U/o.
VIII Rule 1(3) R/w Section 151 of CPC is hereby
dismissed.

No order as to costs.

[Dictated to the Stenographer directly on computer and then corrected by me and thereafter pronounced in the open court on this the 10th day of March, 2026]

(Lakshmi Narasimha R.V.)
C/c I Addl. Civil Judge and JMFC.,
Sakaleshpura.