

O.S.100/2022

ORDER ON I.A. NO. IV

This is I.A. No. IV filed U/Sec. 151 of CPC by the defendant No. 2 to 4. Seeking permission to file their written statement.

The defendant No. 2 to 4 in their affidavit stated that after receiving the suit S/s, the defendants made panchayat in the presence of well wishers and elders in the village. The plaintiff in the said panchayat assured that withdraw the suit filed against the defendants. Therefore, the defendants not filed their written statement.

The plaintiff is not concerned to the suit property, they have created false documents in respect of suit property, hence to determine the real controversy between the parties, written statement of defendant is necessary. Hence, prayed for allow the I.A. No. IV.

On the other hand, the counsel for plaintiff filed detailed objection by denying all the averments made in the accompanying affidavit of I.A. No. IV and specifically contended that after receiving the suit s/s the defendants never conducted any panchayat between the plaintiff and defendants and plaintiff never assured the defendants to withdraw his suit. Therefore, the contention taken by the D-2 to 4 is not

sustainable. The suit S/s have been duly served upon the D-2 to 4 on 14-10-2022. The defendant has to file their written statement within the statutory period as provided under the law. The present suit is posted for the argument, at this stage the present application is not maintainable. Hence, the present application is not maintainable and prayed for rejection.

Heard the counsel for plaintiff filed written argument. Heard counsel for defendant.

POINTS FOR CONSIDERATION

1) Whether Defendant No. 2 to 4 are made out grounds for allow the I.A. No. IV. ?

2) What Order?

DETERMINATION ON ABOVE POINTS

Point No. 1: Affirmative

Point No. 2: As per the following.

REASONS

***Point No. 1:** The defendant No. 2 to 4 filed the present I.A. No. IV seeking permission to file their written statement in the suit. In their affidavit Defendant No. 3 specifically contended that the plaintiff assured to withdraw the suit as per the mediation took place between them in the presence of well*

wishers and elders of village. However, the plaintiff denied the same. The present matter is posted for the final argument. The plaintiff has filed the present suit for Partition and Separate Possession of the suit property. They have taken contention that the suit properties are ancestral and joint family properties of plaintiffs and defendants.

The Defendant No. 2 to 4 are necessary party in the suit and to determine the real dispute between the parties and for the correct adjudication. The written statement of Defendant No. 2 to 4 is required. The contention taken by the defendants is not sustainable. The defendants have to file their written statement within the 90 days from the service of summons upon them. The defendants filed the present I.A. No. IV at belated stage and they have not given any sufficient reasons to allow their application. However, for proper adjudication of the suit and determine the real controversy between the parties, it is just and proper to give an opportunity to the Defendant No. 2 to 4 to file their written statement by exercising powers conferred U/Sec. 151 of CPC by condoning the delay in filing the written statement. Therefore, the Point No. 1 is affirmative.

Point No. 2 : For the above given reasons. This court proceeds to pass the following Order.

ORDER

The application filed U/Sec. 151 of CPC is hereby allowed on cost of Rs. 3000/-.

The defendant No. 2 to 4 are permitted to file their written statement on 11-08-2025 without fail. Call on 11-08-2025.

29/07/2025.

***Civil Judge & JMFC,
Afzalpur.***