

Learned counsel for the plaintiff submits no objection to I.A.No.I. Hence, objection to I.A.No.I taken as nil.

Heard.

For Orders on I.A.No.I

Kept by

(DEVARAJU H.R.)

I Addl.Sr. C.J. and J.M.F.C., K.R.Pete.

ORDERS ON I.A. No.I

I.A. No.I filed by the learned counsel for defendants U/Sec. 151 of CPC to permit him to file written statement of defendants.

2. In the annexed affidavit Defendant No.2 has stated that plaintiff has filed suit for recovery of money. Due to non availability of documents he could not able to file his written statement Hence, he prays for allow the application.

3. Heard arguments. Perused the application and materials available on record.

4. The following points would arise for consideration of this Court.

1.Whether the application filed by the defendants is deserve to be allowed?

2. What order?

5. My answer to the above point as follows;

Point No.1 : **In the Affirmative.**

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

REASONS

6. **Point No.1:** Basically above suit is for recovery of money. Now defendants have filed present application for seeking permission to file their written statement.

7. It is well settled that in view of natural justice the court has to consider both the sides. Court cannot pass a decree effectively on the basis of non-filing of written statement. Enquiry of both the parties is very much necessary for the fair adjudication of the case.

8. In a decision reported in **(2005) 4 SCC 480, (between Kailash V. Nanhku)** Hon'ble Apex Court held that,

“In spite of the time-limit appointed by Order 8 Rule 1 having expired, the court is not powerless to permit a written statement being filed if the court may require such written statement. Under Order 8 Rule 10, the court need not necessarily pronounce judgment against the defendant who failed to file written statement as required by Order 8 Rule 1 or Rule 9. The court may still make such other order in relation to the suit, as it thinks fit.”

9. Therefore, I am of the opinion that if this application is allowed no hardship will be caused to the plaintiff. Hence,

the learned counsel for defendants has made out grounds to allow the application. Accordingly, I answer Point No.1 in the **Affirmative**.

10. **Point No.2:** For the above discussion court proceeds to pass the following.

ORDER

I.A. No.I is allowed with cost of Rs.500/-.

The defendants are hereby permitted to file their written statement.

The learned counsel for the defendants has filed written statement of defendants.

Issues framed.

For plaintiff evidence by
13.07.2026.

(DEVARAJU H.R.)
I Addl.Sr. C.J. and J.M.F.C.,
K.R.Pete.

