

Petitioner present. Learned counsel for the petitioner submits that IA No.6 may be allowed on cost. Hence, objection to I.A.No.6 is taken as nil.

Heard.

For Orders on I.A.No.6.

Kept by

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

ORDERS ON I.A. No.6

I.A. No.6 filed by the learned counsel for respondent No.2 U/s 151 of CPC for seeking permission to file written statement of respondent No.2.

2. In the annexed memorandum of facts learned counsel for respondent No.2 has stated that petitioner has filed present petitioner for seeking compensation. He could not able to file his written statement within stipulated time due to non availability of documents. Hence, he has filed present application for seeking permission to file written statement.

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 respondent No.2 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 petition is for seeking compensation. Now respondent has filed present application seeking permission to file his 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, if this application is allowed no hardship will be caused to the petitioner. Hence, the learned counsel for respondent No.2 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.6 is allowed with cost of Rs.500/-.

The respondent No.2 is hereby permitted to file his written statement.

The learned counsel for the respondent No.2 has filed written statement of respondent No.2.

For issues framed.

Already petitioner himself has examined as PW-1 and furnished documents as per EX-P1 to 34. Hence, it is just and proper to posted the case for cross examination of PW-1.

For cross examination of PW-1 by 08.07.2026.

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