

**ORDERS ON I.A.U/SEC.151 OF CPC FILED BY THE
DEFENDANT NO.9.**

This is an application filed by the defendant No.9 seeking permission of this Court to file the written statement.

2. The application is supported with the affidavit of the defendant No.9. In his affidavit, he has stated that he could not appear before this Court since, he was suffering from ill-health and he was not able to contact his advocate for filing the written statement within time. This Court has taken the written statement of the defendant No.9 as not filed. It is stated that the non-filing of the written statement is not an intentional one, but i.e., due to some unavoidable reasons. It is stated that it is only for the bonafide reasons, he could not file the written statement well within time. It is stated that since, the present suit in respect of the immovable properties, this defendant No.9 has filed this written statement. It is stated that if the application is not allowed, definitely, the defendant No.9 will sustain heavy loss and great injustice will be caused to him. Hence, it is urged to allow the application.

3. The learned counsel for the plaintiff is submitted the application may be allowed on costs.

4. Heard the arguments.

5. Infact, this defendant No.9 has been impleaded by the Court on 25.01.2014. Though, this defendant No.9 has appeared very long back, till 14.11.2016 he has not opted to file any written statement. It is very clear that since, two years and 10

months, this defendant No.9 has not filed the written statement. It is stated by him that since, he was of ill-health, he could not file written statement well within time. It is very important thing to note that the provision U/o.8 Rule 1 of CPC clearly provides for filing the written statement within the period of 30 days. Now, in the case on hand, admittedly, the defendant No.9 has not filed the written statement well within time. Though, he has not filed written statement at a proper time, keeping in view of the nature of the suit i.e., filed for the relief of partition and separate possession as the rights of the parties are to be adjudicated in the case on hand, it is just and necessary to provide an opportunity to the defendant No.9 to contest the matter by permitting him to file the written statement. In view of this, the application filed by the defendant No.9 deserves to be allowed. However, keeping in view of the delay caused in filing the written statement, the application deserves to be allowed with heavy costs. Accordingly, I proceed to pass the following:-

ORDER

The application U/Sec.151 of CPC filed by the defendant No.9 is hereby allowed on a cost of Rs.750/-.

The written statement of the defendant No.9 taken to file.

Call on for payment of costs and additional issues if any by:-

Senior Civil Judge,
Maddur.