

### **ORDERS ON IA No.31**

IA No.31 is filed by the defendant No.10 under 151 of CPC to permit him to file written statement.

2. In the affidavit filed to the application, it is stated that the present suit is filed for partition and separate possession in the year 2012. The defendant No.10 could not file his written statement within time due to bonafide reason and circumstances beyond his control. He had engaged counsel at the relevant point of time. However, his counsel did not properly informed about the status and progress of the case. He was under the impression that his advocate was taking necessary steps in the matter. He was not aware that his written statement is not filed. His counsel failed to file his written statement. He recently came to know that the case is still pending and defence of the defendant No.10 is not placed on record. Immediately

he approached his present counsel and he has taken steps to file his written statement without further delay. The defendant No.10 is a bonafide purchaser for value of suit schedule item No.22 property. He has valid grounds to contest the suit. Therefore, he has filed the present application.

3. The plaintiff filed objection to the present application and stated that the application is not maintainable. The defendant No.10 sworn to false affidavit. He has not made any reasonable grounds to allow the application. When there is specific provision of law to seek permission to file written statement, the defendant No.10 cannot seek the said relief under section 151 of CPC. Therefore, the application is not maintainable. The defendant No.10 is impleaded in the year 2013 itself. He appeared through his counsel and he has knowledge about the case. In spite of it, he failed to file his written statement within the stipulated time. The defendant No.10 has not stated the grounds of delay in filing his written statement. The defendant No.10 purchased suit schedule item No.22 property on 13.11.2012. The present suit is filed on 01.06.2012. The defendant No.10 is not a necessary party to the suit itself. Hence, it is prayed to dismiss the application.

4. Heard and perused.

**5. The point that arises for my consideration is as follows ;**

*Whether the defendant No.10 has made out sufficient grounds to file his written statements at this stage?*

6. My answer to the above point is in the **Negative** for the following ;

### **REASONS**

7. The present suit is filed for partition and separate possession on 01.06.2012. The defendant No.10 is impleaded in the suit on the basis of order dated 25.01.2014 passed on IA No.14 and 16. In IA No.16, it is stated that sale deed is created in favour of the defendant No.10 on 13.10.2012, which is after filing of the suit. The defendant No.10 immediately after receipt of notice on IA No.16 appeared in the case through his counsel. After impleading him as party in the suit, sufficient opportunity was granted to him to file written statement. But he failed to file his written statement within the prescribed time. He has filed the present application after lapse of about 12 year from the date of his appearance in this case. In the affidavit filed to the application, he has made allegations against his earlier counsel. It is the duty of the party to any proceedings to take necessary steps in trial of the case. He cannot make allegations entirely on his counsel for not following the mandate of law. If the court goes on allowing application seeking permission to file written statement on allegations about their counsel, the parties may go on changing

their counsel and make allegations for not following the mandate of law against their counsel. Then there will be never end to the litigation. Therefore, this court is of the considered view that, the reasons stated in the affidavit filed to the present application are not sufficient to permit the defendant No.10 to file his written statement after lapse of about 12 years. Accordingly, above point is answered in the **Negative**. Hence, this court proceeds to pass the following:

**ORDER**

IA No.31 filed under section 151 of CPC is hereby rejected.

For further chief of PW1. Call on 11.06.2026

**I-Addl. Senior Civil Judge & JMFC.,  
Maddur.**