

## **ORDERS ON I.A.NO.XVII**

I.A.No.XVII is filed by the defendant No.11 under Sec.151 of CPC seeking permission to file the written statement contending that he appeared before the court on 04.07.2018 and he had given instructions to his advocate to file the written statement but written statement could not be filed because of bonafide reasons and therefore sought permission to file the written statement.

2. The plaintiff has not filed any objections to the said application.

3. Perused the records.

4. This is a suit for partition and separate possession. The defendant Nos.1 to 4, 6 & 11 have already filed their written statement on 08.12.2010. Necessary issues have been framed. The evidence of plaintiff is completed. So also the evidence of defendant. The case is at the stage of arguments. Defendant No.11 was previously represented by another advocate. Subsequently on 04.07.2018 he has been represented through another advocate by seeking

setting aside of the exparte order which came to be allowed. Thereafter sufficient time was given till 26.09.2018 to file the written statement. There is no order stating that the written statement is taken as not filed. Moreover initially there was a memo filed by defendant Nos.1, 2, 4, 6 & 11 adopting the written statement filed defendant No.3. In the said written statement a specific defence that prior partition has already taken place about 40 years back is pleaded. Now in the present written statement which defendant No.11 intends to file he seeks to sail along with the plaintiff and also seeks awarding of share in the suit property. Though the case is at the stage of arguments defendant No.11 seeks to sail along with the plaintiff permitting him to file the written statement would not in any manner prejudice or affect the interest of the parties. Hence the following-

### **ORDER**

I.A.No.XVII filed by defendant No.11 under Sec.151 of CPC is hereby **allowed** on cost of ₹.250/- payable to other side.

WS of defendant No.11 is taken on record.

For evidence of defendant No.11  
if any or for arguments of both sides  
call on- **28.02.2019**.

Judge, Addl. Court of Small Causes  
Mysuru.