

**ORDERS ON I.A. No.II AND III**  
**FILED UNDER SECTION 151 OF**  
**C.P.C.**

The counsel for the defendant No.6 and 3 filed separate applications i.e., I.A. No.II and III under Section 151 of CPC seeking permission to re-open the case and permission to file written statement on their behalf.

2. In support of the IAs, the defendant No.6 and 3 have sworn to an affidavit wherein they have stated that, the plaintiff has filed this suit against the defendants seeking for relief of Declaration and permanent injunction. The plaintiff has filed this frivolous suit by mentioning boundaries of the land that is in the continuous possession of these defendants and the plaintiff has no way related to the suit property. The plaintiff filed suit on false ground and these defendants have good and just grounds to disprove the claim of the plaintiff. That to collect the related and relevant documents and the actual facts of the suit, it took time for these defendants and hence the delay. That the delay in filing the written statement is of said bonafide reasons and is unintentional. If this application is not allowed, these defendants will be put to greater hardship and injury, on the other hand no hardship or injury will be cause to other side. Hence, prays to allow the applications.

3. On the other hand, the plaintiff counsel Sri.BCM, present and orally submits that he has no objections to IA No.II and III.

4. Heard the applicant counsel, perused the application and materials on record.

5. The point that arise for my consideration is "*Whether the applications filed by the defendant No.6 and 3 deserves to be allowed?*". The above point is answered in the **Affirmative** for the following -

### **REASONS**

6. The suit is filed by the plaintiff against the defendants seeking for the relief of Declaration and permanent injunction.

7. On perusal of order sheet it reveals that, suit is filed on 11.06.2024 and thereafter summons was issued against the defendants. On service of suit summons, the defendants appeared through their counsel, but despite giving sufficient opportunities they have not filed written statement. Hence, this Court has taken the written statement of defendants as not filed on 08.11.2024 and case was posted for plaintiff evidence. The plaintiff got examined her GPA holder as PW.1 and got marked Ex.P1 to 39 documents. Then the matter was posted for Cross of PW.1. At this stage, defendant No.6 and 3 has come up with the present application on 01.03.2025 seeking

permission to file the written statements on their behalf.

8. It is well settled principle of law that, if the reasons stated by the applicant for condoning the delay and to receive written statement on record are satisfied to the Court. Under the special circumstances the Court has got ample powers to condone the delay and to receive the written statement. It is also worth to note the *Hon'ble Apex Court and Hon'ble High Court of Karnataka* in many decisions observed that by imposing cost the written statement may be taken on record in order to do justice to the needy and in the interest of justice. In view of the principles of decisions and circumstances of the case, the reasons stated by the defendant No.6 and 3 in their affidavit this Court is on the opinion that I.A. No.II and III filed U/sec.151 of CPC by the defendant No.6 and 3 are deserves to be allowed on imposing cost. Hence, I proceed to pass the following :

### **ORDER**

I.A. No.II and III filed by the applicant/defendant No.6 and 3 Under Section 151 of CPC are hereby allowed on cost of Rs.500/- each payable to plaintiff.

The defendants are hereby permitted to file the written statement subject to payment of said cost.

The written statement of defendants will be taken on record subject to payment of said cost.

Call on 25.03.2025

Civil Judge & JMFC  
H.D.Kote