

KAMS300000292024



**IN THE COURT OF THE ADDITIONAL SENIOR CIVIL JUDGE  
AND JMFC AT HUNSUR**

**Present:** Smt.Anitha, B.A. (Law) L.L.B.,  
Addl. Senior Civil Judge & JMFC.,  
Hunsur.

**Dated this the 24<sup>th</sup> day of October 2024.**

**OS No.9/2024**

- Plaintiffs:
1. Deveramma, D/o Late Nanjappa,  
W/o Chandrashekara,  
Aged about 51 years,
  2. Kumari, D/o Late Nanjappa,  
W/o Channappa,  
Aged about 47 years,  
Plaintiff No.1 and 2 are  
R/at Bannikuppe village,  
Kasaba Hobli, Hunsur Taluk,  
Mysuru District.
  3. Meenakshi, D/o Late Nanjappa,  
W/o Rajanna, Aged about 45 years,  
R/at Gejjayanavaddaragudi village,  
Bilikere Hobli, Hunsur Taluk,  
Mysuru District.

-Vs-

- Defendants:
1. Siddalingappa, S/o Late Nanjappa,  
Aged about 51 years,
  2. Mahesh, S/o Late Nanjappa,  
Aged about 49 years,

Defendants No.1 and 2 are  
R/at Bannikuppe village,  
Kasaba Hobli, Hunsur Taluk,  
Mysuru District.

1.	Provision under which the applications are filed	:	Under Section 151 of CPC
2.	Relief sought for	:	Permission to file written statement
3.	The date on which the applications are filed	:	19.08.2024
4.	Number of the applications	:	IA No.I
5.	The date on which the objections are filed by different opponents	:	Nil
6.	The date on which the orders passed on the said applications	:	24.10.2024

**ORDERS PASSED ON IA NO.I**

The learned counsel for the 1<sup>st</sup> defendant filed IA No.I under Section 151 of CPC to permit him to file the written statement.

2. The application is supported with the affidavit of the 1<sup>st</sup> defendant wherein it is stated that, the plaintiffs filed the suit against himself and another and he could not able to contact his counsel due to his ill health and personal inconvenience and as such his written statement was taken as nil and the case has been posted for plaintiff evidence. There is bonafide reason for not filing the written statement within time and the delay is not intentional. If the application is not

allowed he will be put to great hardship and inconvenience, on the other-hand no hardship is going to be caused to the other-side. Hence, prayed to allow the application.

3. After filing of the application this court provided sufficient opportunity for the plaintiffs to file the objection. In spite of the it plaintiffs not chosen to file the objection and the same has been taken as nil. Thereafter heard arguments addressed by learned counsel for the 1<sup>st</sup> defendant and perused the case papers.

4. This is the suit filed the plaintiffs against the defendants seeking the relief of partition and separate possession of their 3/5<sup>th</sup> share over the suit schedule property. As per the plaintiffs themselves and the defendants are children and late Nanjappa and Nigamma. The suit schedule properties are ancestral joint family properties of themselves and the defendants and they have got equal share. After filing of the suit this court issued summons to the defendants. The 1<sup>st</sup> defendant appeared through his counsel on 06.02.2024. The 2<sup>nd</sup> defendant though served with the summons not chosen to appear before the court and has been placed exparte. In spite of providing sufficient time the 1<sup>st</sup> defendant not chosen to file the written statement within the statutory period.

5. On 15.04.2024 the written statement of the 1<sup>st</sup> defendant was taken as nil and case has been posted for plaintiff evidence. On 03.07.2024 the plaintiff No.3 examined herself as PW1 and got marked 2 documents as per Ex.P1 and Ex.P2. On 19.08.2024 this application came to be filed under Section 151 of CPC to permit the 1<sup>st</sup> defendant to file the written statement. This court provided sufficient opportunity for the plaintiffs to file the objection but it was not filed. It is very necessary to note that, the suit is for the relief of partition and separate possession and the 1<sup>st</sup> defendant has got right to put-forth his defence. If the 1<sup>st</sup> defendant is not permitted to file the written statement it will prejudice his right over the suit schedule property. If the written statement is received the court will get an opportunity to look into the defence of the 1<sup>st</sup> defendant. Hence, this court proceeds to pass the following:

**ORDER**

IA No.I filed by the 1<sup>st</sup> defendant under Section 151 of CPC is hereby allowed with costs of Rs.300/-.

Accordingly, the written statement of the 1<sup>st</sup> defendant is received.

(Dictated to the Stenographer, transcribed and computerized by her on the computer, transcript corrected and pronounced by me in the open court on this the 24<sup>th</sup> day of October, 2024)

**(Anitha)**

Addl. Senior Civil Judge and JMFC.,  
Hunsur.

