

Case called. Counsel for plaintiff submits that, applications filed by the defendant No.1 to 3, 5, 13, 18 to 20 may be allowed on payment of cost. These applications filed by the defendant No.1 to 3, 5, 13, 18 to 20 Under Section 151 of CPC seeking permission to file the written statement.

2. In the affidavit which enclosed to application, it is stated that the plaintiff has filed the suit against the defendants for the relief of Partition and separate possession in respect of the plaint schedule properties. Further, stated that, due to personal inconvenience defendants have not filed written statement within time. The defendants got good case on merits. If the application is allowed, no harm will be caused to the other side. Suppose this application is not allowed, the defendants will be put to great hardship and injury. Hence, prays for allow the application.

3. On the other hand, the plaintiff's counsel files objection to application contended that, in view of Karnataka Amendment Act 2024 the defendants not filed written statement within 120 days. Therefore, the written statement of

the defendants cannot be taken on record. Hence, prays for reject the application.

4. Heard arguments.

5. Perused order sheet. It appears that, the plaintiff has filed the suit against the defendants for the relief of Partition advocate separate possession in respect of the plaint schedule properties. **As per Order 8 Rule 1 of CPC the defendant shall within 30 days from the date of service of summons on him, written statement of his defence.**

6. Provided also that, where the defendant fails to file the written statement within the said period of 30 days, he shall be allowed to file written statement on such other day, as may be specified by the court, for reasons to be recorded in writing and on payment of such costs as the court deems fit, but he shall not be later than 120 days from date of service of summons and on expiry of 120 days from date of service of summons the defendant shall forfeit the right to file written statement and court shall not allow the written statement to be taken on record.

7. Admittedly, the defendants have not filed written statement within 120 days from the date of service of summons.

8. At the stage it is relevant to refer the decision of the Hon'ble High Court of Karnataka in the case of Sri. Ramesh V/s Nagaraju in WP No. 8884/2026. Wherein, the Hon'ble High Court of Karnataka pleaded interim stay of the operation and implementation of Section 4 of Code of Civil Procedure (Karnataka Amendment) Act 2024 insofar as it introduce the Third Provision of Order 5 Rule 1 of CPC mandating forfeiture of the right to file written statement beyond the 120 days.

9. Further, the Hon'ble Court held that, the Trial Courts shall, pending further order, exercise discretion in receiving written statement beyond 120 days in according to law.

10. The Hon'ble Apex Court held in ***Kailash Vs. Nanhku and others*** reported in **2005(4) SCC 480** observed that, considering the provisions of the Code as originally enacted, recommendations of the law Commission displaying the anxiety of Parliament to ensure speedy disposal of the cases but without sacrificing

fairness of trial and principles of natural justice inbuilt in all procedural laws, the court held the provision directory and permissive and not mandatory and imperative. Further held that in an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation.

11. In this case on hand, no doubt the defendants have not filed written statement within time. But, the rights of the parties will be consider on the basis of pleadings. In the absence of pleadings, the rights of parties cannot be considered. Therefore, considering the nature of the suit, the application filed by the defendants need to be allowed. Hence, the application filed by the defendants is allowed on cost.

12. The defendant No. 1 to 3 are payable cost of Rs. 1,000/- to the plaintiff.

13. The defendant No. 5, 13, 18, 19 are payable cost of Rs. 1,000/- to the plaintiff.

14. The defendant No. 20 and 21 are payable cost of Rs. 1,000/- to the plaintiff.

15. The written statement of defendants taken on record.

For examination of parties Under
Order 10 of CPC.

Call on: 09.06.2026.

**Senior Civil Judge & JMFC,
K.R.Nagar.**