

**ORDERS ON APPLICATION UNDER
SECTION 151 OF CPC**

This application is filed by the defendant No.4 under Section 151 of CPC seeking permission to file the written statement.

2. In the affidavit it is stated that the plaintiffs have filed the suit against the defendants for the relief of partition and separate possession with respect to the suit schedule properties. Due to the ill-health, she unable to meet her counsel to file the written statement within time. She 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, she will be put to great hardship and injury. Hence, she prays for allow the application.

3. On the other hand, the plaintiffs have not filed objection to the application. Hence, objection to the application is taken as not filed.

4. Heard arguments.

5. Perused order sheet. It appears that, the plaintiffs have filed the suit against the defendant No.1 to 3 for the relief of partition and separate possession. Further, the record shows that at request of the plaintiffs, the defendant No.4 and 5 have made parties

to the suit on 21.01.2023. But, the defendant No.4 has not filed written statement within 30 days from the date of appearance. The defendant No.2 has gifted the item No.4 in favour of defendant No.4 under registered gift deed dated 03.12.2021.

6. The Hon'ble Apex Court held in ***Kailash Vs. Nanhku and others*** reported in ***2005(4) SCC 418*** observed that, considering the provisions of the Code as originally enacted, recommendations of the law commission, anxiety of parliament to ensure speedy disposal of the cases but without sacrificing fairness of trial and principles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.

7. In this case on hand, no doubt the defendant No.4 has not filed written statement within time. But, the rights of the parties will be considered on the basis of pleadings. In the absence of pleadings, the rights of the parties cannot be considered. Therefore, considering the nature of the suit, the application filed by the defendant No.4 needs to be allowed.

Hence, the application filed by the defendant No.4 is allowed on cost of Rs.2,000/-.

8. The written statement of defendant No.4 taken on record.

9. On perusal of the written statement of defendant No.4, no additional issues have arisen.

For defendant's arguments by:
10.02.2026.

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