

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

This application is filed by the defendant No.10 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 plaintiffs have filed the suit against the defendants for the relief of partition and separate possession with respect to the suit schedule properties. On the last date of hearing he was unable to file his written statement in time, due to non-availability of certain documents. Recently he had procured the documents. He 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, he will be put to great hardship and injury. Hence, he 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 defendants for the relief of partition and separate possession with

respect to the suit schedule properties. Admittedly, the defendant No.10 has not filed written statement within time. It is well settled that the defendant must file a written statement within thirty days from the date of service of summons on her, present a written statement of her defence. The said period however can be extended upto 90 days.

6. 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 Nanhku and others*** reported in **2005(4) SCC 480** observed that, considering the provisions of the Code as originally enacted, recommendations of the law Commission displaying the anxiety of Parliament to ensure speedy disposal of the cases but without sacrificing fairness of trial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.

7. In this case on hand, no doubt the defendant No.10 has 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 defendant No.10 needs to be allowed. Hence, the application filed by the defendant No.10 is allowed on cost of Rs.5,000/-.

8. The written statement of defendant No.10 taken on record.

For payment of cost.

Call on: 16.12.2025

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