

**ORDER ON I.A.NO.1/2025 FILED BY THE DEFENDANT UNDER  
ORDER 8 RULE 1 R/W SECTION 151 OF CPC.**

The Plaintiff has filed this suit against the defendant for the relief of Declaration and consequential relief of Permanent Injunction and for such other reliefs that the Court may deem fit.

2. When the matter is set-down for Argument, the defendant has filed this application Under section 151 of CPC., seeking permit her to file written statement. According to

defendant due to her old age and her ill-health she could not contact her counsel and filed written statement in time. Hence, the delay in filing her written statement is neither intentional nor deliberate one and she further stated that, no hardship or prejudice will be caused to the plaintiff if the application is allowed. Therefore, she sought for allow the application.

3. In turn the learned counsel for plaintiffs has filed objection to the application by contending that, application is not maintainable either under law on facts. He further contended that, the defendant is making hectic efforts to harass the plaintiff and is trying to prolong the litigation by filing one or the other application without any merits. The defendant has not filed written statement and there is 9 years delay and without producing medical records would generally be seen as gross negligence or deliberate dilatory tactics. Accordingly, he sought for rejection of application.

4. For disposal of IA.No.1/2025 following points arise for my consideration:

- 1) Whether the defendant has made out sufficient grounds to permit her to file written statement?
- 2) What Order?

5. Having heard arguments on both side my findings of the above points are:

Point No.1 : In the “**Affirmative**”  
Point No.2 : As per the final order  
for the following:

### **REASONS**

6. **Point No.1**:-It is settled principle of law that procedural Law should not be the mistress of justice, but should be a hand maiden of justice. In other words, the procedure should be

enforced to meet the ends of justice and not to deprive any party of his rights.

7. In this case, the defendant has sworn to that due to her old age and ill-health she could not file written statement in time. Accordingly, she could not contact her advocate to file her written statement intime. Therefore, at this stage, there are no reasons to disbelieve the claim of defendant.

8. The defendant must have a reasonable opportunity to put forth her defense before the Court. Admittedly, the instant suit was filed in 16.07.2016. Though belatedly, the defendant filed the written statement. I.A.No.1/2025 is for condonation of delay after matter is set down for Argument. Thus, respectfully following the ratio of the judgments of the Hon'ble Supreme Court and High Court in the opinion of the court there are no reasons to disbelieve the claim of the defendant.

9. If the present application is allowed, no hardship or injury would be caused to the plaintiffs. On the other hand, if it is rejected, the defendant would be deprived of her defence and it would lead to multiplicity of proceedings. It also would amount to punishing the defendant for her ignorance. Therefore, there are no reasons to reject the prayer of the defendant. Accordingly point No.1 is answered in the **Affirmative**.

10. **Point No.2:-** Though the defendant must be permitted to file her written statement, it also must be kept in mind that there is great delay in the application filed by the defendant for the same. A party who appears before the court is expected to be vigilant and must be careful enough so as not to cause inconvenience to others. Due to the carelessness of defendant, this application has filed. This has resulted in delay in the trail and has also caused inconvenience to the plaintiffs. Considering the inconvenience caused to the plaintiffs it is

deemed fit to allow this application only on payment of cost. In the facts and circumstances of the present suit it is deemed fit to impose cost of Rs.1,000/- on the defendant to compensate the plaintiffs. Accordingly in the light of above discussion, this court proceed to pass the following:

**ORDER**

The I.A.No.1/2025 filed by the defendant Under Order 8 Rule 1 R/w Section 151 of C.P.C., is hereby allowed on cost of Rs.1,000/- and the written statement filed by the defendant is taken on record.

For cost and Issues.

Call on 27.09.2025.

Prl. Civil Judge & JMFC.,  
Nanjanagudu.