

ORDERS ON IA.NO.I

I.A.No.I is filed by defendant No.1 under Sec.151 of CPC seeking permission to file written statement along with the written statement contending that on account of jaundice defendant No.1 was bedridden which prevented him from contacting his advocate and instruct him to file written statement within the time fixed by the court. It is submitted that the defendant No.1 has got a good case on merits and if the application is not allowed he would suffer irreparable loss or injury and on the other hand no prejudice would be caused to the plaintiff if the application is allowed. Hence the application.

2. The plaintiff has filed objections contending that the defendant No.1 has not filed the written statement within the time stipulated under law and that the reasons assigned for delay in filing the written statement is not sustainable in law and sought for rejecting the application with costs.

3. Heard both sides and perused the records.

4. The plaintiff has filed this suit for declaration of their title over the suit schedule property and for declaration of the sale deed dated: 16-04-2009 as null and void and for vacant possession of the suit schedule property. The defendant No.1 was served with the summons and appeared before the court through his advocate on 15-12-2015. Thereafter till 19-10-2016 sufficient opportunity given to defendant No.1 to file his written statement but the defendant No.1 failed to file written statement inspite of providing sufficient opportunity. Thereafter on 08-02-2017 the plaintiff examined himself in part as PW.1. Further examination of PW.1 came to be deferred at request. Thereafter on 10-03-2017 when the case was posted for further examination of PW.1 present application is filed. It is contended by the applicant that on account of jaundice he was bedridden he was prevented him in contacting his advocate and give necessary instruction to file written statement.

Though the plaintiffs contend that the cause shown is not sustainable in law at the same time no contra material is produced before the court to disbelieve the grounds urged under the application. At the same time this court cannot loose sight of the fact that nearly for one year opportunity was given to file written statement but defendant No.1 has failed to do so. Under these circumstances to meet the ends of justice and as the evidence is yet to be commenced I deem it proper to allow the application and permit the defendant No.1 to file written statement by imposing suitable costs. Accordingly the following

ORDER

I.A.No.I filed by the defendant No.1 under Sec.151 of CPC is hereby **ALLOWED** on cost of Rs.1000/-. Out of the total cost amount a sum of Rs.500/- shall be paid to Taluk Legal Committee, Periyapatna and balance cost amount of Rs.500/- shall be paid to the other side.

The written statement filed by defendant No.1 along with the application is taken on record.

For payment of costs and framing of issues by 13-04-2017.

Senior Civil Judge & JMFC,
Periyapatna.