

ORDERS ON IA No.III

Sri. M.C.Shivkumar counsel for the defendant No.5 has file IA No.III under Order IX Rule 7 r/w Section 151 of CPC seeking to set a side the exparte order passed against the defendant No.5.

2. In the accompanying affidavit, it is mentioned that due to her ill-health, she unable to attend the court on first instance, hence placed exparte. Now her son intend to appear before this court. If this application allowed, no prejudice will cause to other side. Hence prayed to set aside the exparte order and to lead his case.

3. On the other hand the counsel for the plaintiff has filed objections contending that despite of service of summons the defendant has not appeared before the court and placed exparte. After giving sufficient opportunities, the defendant No.5 has not filed written statement and objections. Now the present application is filed with an intention to protract the proceedings. Hence prayed to dismiss the application.

4. Heard. Perused. Satisfied with the reasons stated in the affidavit.

5. From the perusal of the order sheet it is noticed that suit summons were served duly upon defendant No.5. after giving sufficient opportunities, the defendant remained absent and no order keeping defendant No.5 exparte was passed. Upon which defendant No.5 can very well proceed with the case. Accordingly IA No.III is allowed on cost of Rs.200/-.

**Addl. Civil Judge & JMFC,
Periyapatna.**