

ORDER ON I.A.NO.5

Defendants has filed IA.No.5 U/Sec. 151 of CPC to set aside the order dated 15.10.2024 and permitting to file the written statement.

2. The plaintiff has filed objection by denying contents of application and affidavit. Further stated that at this belated stage the application filed by defendant is not maintainable and prays to reject the same.

3. Heard arguments on plaintiffs side. The advocate for defendant has not argued.

4. The point for consideration are as follows:

1. Whether the defendant has made out grounds to allow the application?

2. What order?

5. My findings on the above points are as under:

Point No.1. In the Negative.

Point No.2. As per final order, for the following:

:REASONS:

6. Point No.1:- It is suit for specific performance of contract on the ground that defendant has executed registered agreement of sale deed in favour of the plaintiffs on 01.04.2023 agreeing to sell the suit property for total price of Rs.16,52,000/- and received Rs.8,00,000/- as earnest money. Thereafter failed to perform his part of contract.

7. When the case was posted for judgment the defendant has filed IA u/Sec.151 of CPC seeking permission to file written statement but the said application is not accompanied with written statement.

8. The defendant stated that he has borrowed loan of Rs. 10,00,000/- from the plaintiff and paid Rs.1,00,000/- p.a. as interest but plaintiff has suppressed the said fact. He was trying for amicable settlement through middle man by adjusting the already paid amount. Therefore his earlier

advocate told him that if the matter is not settled he has to file the written statement. Therefore he was under the hope that matter will be settled and he has not filed written statement. Later his present advocate informed him for filing written statement. Therefore he has filed present application seeking permission to file written statement.

9. Plaintiff filed has objection stating that at this belated stage the application filed by the defendant is not maintainable. There are no sufficient grounds to allow the application. If the application is allowed it will cause much hardship to the plaintiff. Therefore he prays to reject the application.

10. In this case defendants appeared on 07.08.2024 but he failed to file written statement within 90 days. Therefore on 04.08.2025 it was taken as no written statement. The plaintiff has led the evidence and defendant has failed to cross examination PW-1. When the case was posted for judgment at that time the present IA filed on 04.04.2026

seeking permission for filing written statement but the application is not accompanied with the written statement.

11. It is a procedure that when ever the defendant sought permission for filing written statement by filing application the said application must be accompanied with written statement but why the written statement is not accompanied with application there is no explanation by the defendant. Further even though application filed on 04.04.2026 but defendant and his counsel were remained absent thereafter. Even after the granting sufficient time the advocate for defendant has not argued on the application. It appears that the defendant is not interested to proceed on the application. Therefore the defendant has not made out grounds to allow the application. Hence, point No.1 is held in the Negative.

12. Point No.2 as per discussion and finding on the above point No.1. I proceed to pass the following:

: ORDER :

IA.No.5 filed by defendant U/Section 151 of CPC is here by rejected in the ends of justice and equity.

For arguments on main case.

Call on 22.07.2026.

(Dictated to the Stenographer, directly on computer corrected and then pronounced by me in the open court, this the 21th day July-2026)

Sd/-
(Shankarappa Malashetti)
Addl. Senior Civil Judge
& JMFC-I, Raichur.