

OS 17/2021

1.	Provision under which the application is filed	U/section 151 of CPC
2.	Relief sought for	Permission to file W.S.
3.	The date on which the application is filed.	30-11-2024
4	Number of application.	IA No. III
5	The date on which the objections are filed by different opponents	30-11-2024 No objection to IA
6.	The date on which the orders were passed on the said application.	30-11-2024.

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: ORDERS ON IA NO. III :-

This is the application filed by the defendant No. 2 permission to file his written statement of this suit. In the affidavit It is averred to the application. originally the plaintiff has filed suit for the relief of declaration and permanent injunction against defendants in respect of suit schedule properties. It is also averred that due to non availability of the documents. defendants could not contact their counsel to instruct to him to filed written statement as such written statement on his behalf could be filed in this case. The delay in non filing of written statement is not intentional. If this application is allowed know hardship will be caused to plaintiff. Per contra if this application is not allowed the defendants will put to grate hardship before pray to allow the application in interest of justice. On receipt of application learned counsel application has filed objection contending that the application is not maintainable ether in law or fact also. The Plaintiff counsel submits no objection to the IA. On the basis of the application and objection filed following points arise for my consideration.

1. Whether the defendant No.2 has made out sufficient ground to allow this application ?

2. What order?

3. My answer to the above point is as under.

Point no.1:- In the Affirmative.

Point no.2:- As per final order for the following

REASON

Point no.1:- At the outset it is the suit for the relief of declaration and permanent injunction in respect of suit schedule properties against defendants. Hence under such circumstances the right of the parties needs to be adjudicated, as such he need to be give on opportunity to defend their right suit property. Further on perusal of order sheet, defendant No. 2 appeared through his counsel on 16-09-2022 but all these days they has not filed written statement. As such, if application as prayed for is allowed, there will be delay in proceedings. But only delay in filling the written statement shall not deny the opportunity to defendant to defend her right with respect of suit property. As such in my view by imposing suitable cost, the defendants can be permitted file their written statement. Hence, the defendants has made out sufficient ground to allow this application. Accordingly I answer to the point no.1 in the Affirmative.

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Point no.2:- In view of discussion arrived at point no.1 IA no. III deserves to be allowed. Hence I proceed to pass the following,

:ORDER:

IA No. III filed by the defendant No. 2 u/s 151 of CPC is hereby allowed on cost of Rs. 200/-. Cost to be paid on cost date of hearing..

The defendant No. 2 is permitted to file their written statement and counter claim.

For framing Addl. Issues.

Call on 09-12-2024.

Sd/-

Civil Judge and JMFC,
Devadurga.

