

OS 10/2024

Plaintiff counsel filed IA No. 3 U/o 16 Rule 1 of CPC for permission of list of witness perused satisfied IA is allowed. Two witness by name Pasha and Shivaraja filed chief examination affidavit U/o 18 rule 4 of CPC got examined PW 2 and 3.

Defendant counsel prays time to file W/S Hence pass over.

Civil Judge and JMFC,
Devadurga.

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.	09-01-2025
4	Number of application.	IA No. 04
5	The date on which the objections are filed by different opponents	09-01-2025 no objection
6.	The date on which the orders were passed on the said application.	09-01-2025

: ORDERS ON IA NO. IV

This is the application No. 4 filed by the defendant No. 1 and 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 Partition and separate possession against defendant in respect of suit schedule property. It is also averred that due to non availability of the documents. defendant 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. Counsel submit no Objection to the IAs. On the basis of the application and objection filed following points arise for my consideration.

1. Whether the defendants No. 1 and 2 have 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 Partition and separate possession in respect of suit schedule property against defendants. Hence under such circumstances the right of the parties needs to be adjudicated, as such he needs to be given an opportunity to defend their right suit property. Further on perusal of order sheet, defendants No. 1 and 2 appeared through his counsel on 02-03-2024 but all these days they have not filed written statement. As such, if application as prayed for is allowed, there will be delay in proceedings. But only delay in filing 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 to file their written statement. Hence, the defendants have made out sufficient ground to allow this application. Accordingly I answer to the point no.1 in the Affirmative.

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

:ORDER:

Application No. 4 filed by the defendant No. 1 and 2 u/s 151 of CPC is hereby allowed on cost of Rs. 200/- . Cost to paid. W.S. taken on record.

For Issues. Call on 15-01-2025.

Sd/-
Civil Judge and JMFC,
Devadurga.

