

ORDERS ON I.A.II

The defendant has filed this IA under Order 18 Rule 17 R/w Section 151 of CPC by praying to permit him to file his written statement and to contest the suit.

2. In his affidavit accompanying to the IA No.II, the defendant has stated that due to his personal inconvenience he was unable to attend the court or to meet his advocate to give instruction for preparing written statement. Therefore, he further stated that, he could not file the written statement within time. Hence, the defendant prays to allow the IA No.II.

3. Per contra, the learned counsel for the plaintiff filed her objection to IA and praying to dismiss the same on the ground that, the grounds urged by the defendant under the IA No.II are untenable under law.

4. Heard both sides. Perused the records.

5. The record would reveal that, after institution of the suit, suit summons was duly served on the defendant. On 30.01.2024 the defendant appeared through his counsel and sought time to file written statement. But he has not filed his written statement in the subsequent dates of hearings and within statutory period.

Hence, the written statement of the defendant was taken as nil. Under the present IA the plaintiff prays to give him an opportunity to file his written statement and to contest the suit.

6. Allowing the present IA will not cause any injustice to the plaintiff in any manner. The written statement filed along with the present IA would indicate that the defendant is setting up some kind of right in the suit immovable property. Hence, giving fullest opportunity to the defendant to defend himself in the suit is found necessary to meet the ends of justice. Therefore, IA deserved to be allowed as subject to cost.

7. Accordingly, the following:

ORDER

IA No.II filed by the defendant under Order 18 Rule 17 R/w Section 151 of CPC, is hereby allowed on cost of Rs.200/-.

Consequently, the written statement is taken on record.

The memo filed by the defendant along with IA No.II is also allowed and his written statement is treated as his objection to IA No.I.

For issues. Call on 27.11.2024.

Prl. Civil Judge & JMFC,
Bhadravathi.

