

**IN THE COURT OF THE PRL., CIVIL JUDGE &
JMFC, GUBBI**

**Present : Smt. RADHA.S., B.A. LL.M.,
Prl., Civil Judge and JMFC,
Gubbi.**

Dated this the 07th Day of July 2018

O.S.No. 165/2014

Plaintiff : Nagaraju S/o
Paramashivaiah, 55 years,
R/o Marashettihalli Village,
Kadaba Hobli, Gubbi Taluk.

(By Sri. K.K.S., Advocate)

V/s

Defendants: 1. Parmashivaiah S/o Late
Siddaramegowda, 80 years,
R/o Marashettihalli Village,
Kadaba Hobli, Gubbi Taluk.
And 2 others.

(By Sri. M.G.R., Advocate)

(Smt. Radha.S)
Prl., Civil Judge & JMFC,
Gubbi.

**ORDER ON I.A No. 8 FILED UNDER SECTION
151 OF CPC BY THE PLAINTIFF**

1. The applicant/plaintiff has filed this application seeking permission to file written statement to the counter claim filed by the defendants. The

defendants have filed their objection to the present application.

2. I have heard the Arguments of Sri KKS Advocate for the plaintiff and Sri MGR Advocate for the defendants on the present application and perused records.

3. The points that arise for my consideration are:

(1) Whether the applicant made out good grounds to allow the present application?

(2) What Order?

4. My answers to the above points are as follows:

Point No.1 : In the Affirmative.

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

::REASONS::

5. Point No.1 & 2 : In the affidavit, the plaintiff has submitted that, he plaintiff has filed this suit against the defendants for partition and separate possession over the suit schedule properties, wherein the defendants have filed their written

statement wherein they have also filed counter claim against the plaintiff. The plaintiff was not able to provide information and documents to his counsel to file written statement as such the plaintiff has not written statement to the counter claim. It is pertinent to note that, the burden is upon the defendants to prove their counter claim and the plaintiff has to provide one more opportunity to file written statement to the counter claim. If this application is allowed no harm or injustice will be caused to the defendants, if not allowed definitely irreparable loss and injury will be caused to the plaintiff rather than the defendants. Hence Point No.1 is answered in the Affirmative.

6. Point No.2: For the aforesaid reasons and finding on Point No.1, I proceed to pass the following:

ORDER

I.A.No.8 filed U/Sec. 151 of CPC by the plaintiff is hereby allowed.

The plaintiff is permitted to file written statement to the counter claim.

(Prepared by me directly on computer, corrected by me then the Stenographer has taken print out, after taking printout corrected, signed and then Judgment pronounced by me in open court on 07th day of July 2018.)

(Smt. Radha.S)
Prl. Civil Judge & JMFC.,
Gubbi.