

ORDER ON I.A.

The Lr(a) of defendant No.1 has filed an I.A. U/s 151 of CPC and prayed to condone the delay in filing written statement and permit him to file written statement.

2. The Lr(a) defendant No.1 sworn an affidavit contended that, plaintiff has filed this suit for declaration and permanent injunction. Now the case is posted for further proceedings , due to unavoidable circumstance, he could not contact his counsel and file his written statement in time and the court was taken his written statement as not filed. Non filing of the written statement is not intentional one. Recently he has instructed his counsel to file his written statement. The defendant contended that, he has got merits to defend his case. Hence prayed to allow the application.

3. The plaintiff has filed objections contending that, the application is not maintainable the defendant no.6 has sworn to false affidavit in order to drag on the proceedings. The averments made in the affidavit all are false and no tenable grounds are made out to allow the application. This suit has been filed on 1-10-2013 and summons was served on the defendant and he appeared to his counsel , but he has not filed his written statement and court was taken his written statement not filed on 16-07-2014, further defendant was died in the year 2016

and his Lr(a) was brought on record , they were not appeared and their written statement was also taken as not filed. The defendant no.1 was also conducted a case in the court of Hon'ble Principal Civil Judge , Sira and he and his legal heirs were also aware of the proceedings, intentionally the defendants have not filed written statement. Now the case is posted for plaintiff evidence at this state the plaintiffs are came of this application to drag on the proceedings. Hence prayed to reject the application.

4. Heard and perused the records, this is a suit for declaration and permanent injunction and the case is at the stage of further plaintiff evidence. Now the Lr(a) of defendant No.1 has came with this application and filed his written statement. The plaintiff filed objection contended that, the defendant no.1 and his Lr(a) have not filed their written statement just to drag on the proceedings. On perusal of the records it is noticed that, there was a delay in filing written statement. Though there was a delay , an opportunity has to be given to the Lr(a) of defendant No.1 to file his written statement and to defend his case in the interest of justice. The delay in filing written statement may be compensated. Hence I proceed to pass the following;

Order

I.A. filed U/s 151 of CPC is
hereby allowed.

The written statement of Lr(a)
of defendant No.1 is taken on
record.

For issues.

(Smt.Geeta)

Addl. Civil Judge & JMFC.,
Sira.