

KAYG030041852025



**IN THE COURT OF THE PRL CIVIL JUDGE AND JMFC., AT  
YADGIRI**

**PRESENT**

**Sri. Arun Chougule,  
B.A.LL.B.[Hons.]**

**PRL.CIVIL JUDGE AND J.M.F.C, YADGIRI**

**DATED THIS THE 05<sup>th</sup> DAY OF MARCH-2026**

**ORIGINAL SUIT NO.149/2025**

<b>PLAINTIFF/S:-</b>	Smt. Rubina W/o Roshamiya, Age: 22 years, Occ: Household, R/o: Chatnalli village, Tq: Shahapur, Dist: Yadgiri.
	<b>(By Sri. R.C.S Advocate)</b>
	<b>-V/S-</b>
<b><u>DEFENDANT/S:-</u></b>	1. Dr.Sharanreddy S/o Shivareddy Kodla, Age : 45 years, Occ: Medical Practitioner and Agriculture, R/o H.No.351/N, KHB Colony, Hosalli Road, Yadgiri, Tq: & Dist: Yadgiri.  2. Sri.Venkatreddy S/o Chandrareddy, Age : 51 years, Occ: Agriculture, R/o Yelsatti village, Tq: Gurumitkal, Dist: Yadgiri.  3. Sri.Shivanna S/o Mallappa Anabi, Age : 63 years, Occ: Agriculture, R/o Main Road, Kumbarhalli, Bapunagar,

KAYG030041852025



	<p>Nalwar village, Tq: Chittapur, Dist: Kalaburagi.</p> <p>4. Smt. Mala.B.Narayan Rao W/o B.N.Narayan Rao, Age: 56 years, Occ: Agriculture and business, R/o Sharadamba Layout, 2<sup>nd</sup> cross, Nandidurga Road, MM Road, Bangalore North.</p>
	<p style="text-align: center;"><b>(D-1 placed ex parte)</b> <b>(D-2 By Shri.S.K Advocate)</b> <b>(D-3 and 4 By Shri.M.B.P Advocate)</b></p>

**ORDER ON I.A.No.2**

**Applicants/defendant/s** : Shivanna S/o Mallappa Anabi, and  
Anr.

-V/S-

**Opponents/ plaintiff/s**: Smt. Rubina W/o Roshamiya.

i.	<i>Provision under which the application is filed</i>	<i>Under Sec.151 of CPC</i>
ii.	<i>Relief sought for</i>	<i>Seeking permission to file their written statement</i>
iii	<i>The date on which the application is filed</i>	<i>03.03.2026</i>
iv.	<i>Number of the application</i>	<i>IA NO.II</i>

KAYG030041852025



v.	<i>The date on which the objections are filed by different opponents</i>	
vi.	<i>The date on which the orders were passed on the said application.</i>	05-03-2026

**ORDER ON I.A.NO.II FILED BY THE DEFENDANTS NO.3  
AND 4 UNDER SECTION 151 of CPC**

The defendants No.3 and 4 have filed the present application U/s 151 of CPC seeking permission to file their written statement.

2. The defendant No.3 has sworn to an affidavit in support of the application stating that, as himself and defendant No.4 were not in the head quarters and could not meet their advocate, they could not file the written statement in time. That, the dispute is with respect to immovable property. As such, the defendants No.3 and 4 would be put to heavy loss, if they are not given permission to file the written statement. Hence, the defendants No.3 and 4 pray to allow the application.

3. Learned counsel for the plaintiff submitted that the application deserves to be dismissed as prescribed period of 120 days from the date of service of summons has already expired.

KAYG030041852025



4. Thereafter, I have heard arguments of learned counsel for both parties and perused the records.

5. After hearing the arguments and perusal of pleading and records, the following points arise for my consideration;

**1. Whether the application deserves to be allowed?**

**2. What order?**

6. My findings on the above points are as under;

**Point No.1 : In the Affirmative.**

**Point No.2 : As per final order**

**for the following:-**

**REASONS**

7. **POINT NO.1** : The plaintiff has filed the present suit seeking the relief of declaration of title and permanent injunction restraining the defendants No.3 and 4 from interfering with her possession over the suit open space bearing plot No.24 measuring 108 Sq meters situated in NA land bearing Sy.No.659/1 of Yadgiri 'B' village.

8. It can be seen that, after registration of the suit, summons was issued to the defendants. However, as the

**KAYG030041852025**

summons issued to the defendants No.3 and 4 was not returned on 14.10.2025, this court ordered issuance of fresh summons through RPAD. Accordingly, the summons was duly served upon the defendants No.3 and 4 and they appeared through their counsel. However, as the defendants No.3 and 4 did not file the written statement in spite of giving sufficient time, by an order dated 06.02.2026, their written statement taken as not filed. Thereafter, when the matter was posted for hearing on IA No.1 filed by the plaintiff U/o 39 Rule 1 and 2 of CPC, on 03.03.2026, the defendants No.3 and 4 filed the present application seeking permission to file their written statement. Along with the application, the defendants No.3 and 4 furnished their written statement and memo adopting the same as objections to IA No.1.

9. It can be seen that, summons issued to the defendants through court process, as per order dated 15.09.2025, were not returned on 14.10.2025. As such, this court, by order dated 14.10.2025, ordered issuance of fresh summons to the defendants No.3 and 4 through RPAD. On the next hearing date i.e., 28.11.2025, learned MBP advocate filed memo undertaking

**KAYG030041852025**

to file vakalath for defendants No.3 and 4. Thereafter, learned MBP filed vakalath for defendants No.3 and 4 on 06.02.2026. However, as the defendants No.3 and 4 did not file the written statement in spite of giving sufficient time, by an order dated 06.02.2026, their written statement taken as not filed, and now they are seeking permission to file written statement.

10. As per the third proviso appended to Rule 1 of Order 8 of CPC, inserted by the Code of Civil Procedure (Karnataka Amendment) Act, 2024, on expiry of 120 days from the date of service of summons, the defendants forfeit their right to file the written statement. As per the said proviso, this court has no power to permit the defendants to file written statement after expiry of 120 days from the date of service of summons.

11. In the present case on hand, learned counsel for defendants No.3 and 4 argued that summons issued through RPAD was served upon them on 04.11.2025, as such, the written statement filed on 03.03.2026 is within 120 days from the date of service of summons. However, learned counsel for the plaintiff argued that summons issued through court process

KAYG030041852025



was served upon defendants No.3 on 09.10.2025, as such, his right to file the written statement is forfeited.

12. Insofar as defendant No.4 is concerned, the written statement is filed within 120 days as the summons upon him was served on 04.11.2025. The dispute is with regard to the right of defendant No.3 to file the written statement. As per the arguments of learned counsel for the parties, summons issued through court process was served upon the defendant No.3 on 09.10.2025 and summons issued through RPAD was served upon him on 04.11.2025. Hence, taking into account the latest date of service of summons through RPAD, the defendant No.3 has also filed the written statement within 120 days. Hence, application deserves to be allowed. Accordingly, point No.1 is answered in the Affirmative.

13. **POINT NO.2:** In view of the above discussion, the following:-

**ORDER**

I.A.No.2 filed by the defendants No.3  
and 4 U/s 151 of CPC is hereby allowed

KAYG030041852025



and written statement of defendants No.3  
and 4 along with memo dated 03.03.2026  
is taken on record.

To hear the defendants on IA No.1.

Call on: 13.03.2026.

(Dictated to the stenographer, transcribed and typed by him and after  
corrections, pronounced in the Open Court on this the **05<sup>th</sup> day of March-2026**)

**(ARUN CHOUGULE)**  
**PRL.CIVIL JUDGE AND J.M.F.C,**  
**YADGIRI.**