

IN THE COURT OF THE MUNSIFF, KODUNGALLUR.

Present:- Smt.Karthika.K.,Munsiff.

Tuesday, the 16th day of December, 2025/25th Agrahayanam, 1947 SE

I.A.12/2025 IN O.S.635/2021

Petitioner/Defendant

Noushad, Aged 60, S/o. Kuzhikkandathil Muhammed
Peramangalam Village, Desom & P.O., Thrissur Taluk,
PIN-680 545.

By Adv.PV.Giri

Respondent/Plaintiff

Abdul Sudheer, Aged 54, S/o. Kuzhikkandathil Muhammed
Edathiruthi Village, Chooloor Desom & P.O.,
Kodungallur Taluk.

By Adv.T.M.Sabala

This petition coming on this day for hearing before me, the court
on the same day passed the following:-

ORDER

**This is a petition filed by the defendant under Section
151 of CPC for accepting the written statement.**

2. **The petition averments is as follows:-** The petitioner
is the defendant in the above case. He was supposed to file written
statement before the court. The above suit was ordered to tried
jointly along with O.S.1119/2017 on the day when it was posted for
filing the written statement. The defendant could find out that he
omitted to file the written statement only on that time. Hence he is
filing the written statement along with this petition. Hence the

written statement filed by the defendant may be accepted otherwise it will cause irreparable injury and hardships to the petitioner.

3. **The objection filed by the respondent as follows:-**

The petition to joint trial was allowed on 18.2.2022. Therefore the false averments stating the joint trial petition was pending in the year 2021 cannot be accepted. The written statement was not filed for more than 4 years is due to willful negligence on the part of the defendant. The only intention of the defendant is to prolong the trial of the suit. No specific reason has been mentioned in the petition filed for accepting the written statement. If the petition is allowed it will cause severe hardships to the respondent.

4. Heard both sides.

5. Point to be considered:-

“ Whether the petition can be allowed?”

6. **The Point:-** This is a petition to accept the written statement. This case is filed on 9.8.2021. The defendant entered appearance on 29.9.2021. As per Order VIII Rule 1 the defendant shall file the written statement within 30 days from the date of service of summons. If the defendant omitted to file the written statement within 30 days of his appearance as per the orders of the court the defendant shall be allowed to file the same on such other day which shall not be later than 90 days from the date of service of summons. As per **Section 148 of the Code of Civil Procedure** “Where any

period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court may, in its discretion, from time to time, enlarge such period, not exceeding thirty days in total, even though the period originally fixed or granted may have expired". The defendant was well aware that he approached to file the written statement within 30 days of his appearance. If he was unable to file the written statement within 30 days he could have applied before the court under Order VIII Rule 1 or u/s 148 of the CPC for granting him time for filing the written statement. But the defendant omitted to initiate any such proceedings in this case. Now he has filed the petition u/s 151 of CPC for accepting his written statement in the above case. No specific reasons are cited by the defendant which prevented him from filing the written statement in O.S.635/2021. But u/s 151 of the CPC this court has got ample power to initiate any action which serves the purpose of imparting justice for which specific provision provided in the Code of Civil Procedure. Order VIII Rule 1 provides for 90 days period and Section 148 provides for granting of time not later than 30 days into any prescribed period under those code. Since the defendant filed this written statement exceeding the time limit prescribed under the period section applicable to this situation is Section 151 of the CPC. There is no doubt that the defendant shall be permitted to present all his possible defences against the case of the plaintiff. But at the same time it

cannot be forgotten that there is sheer negligence on the part of the defendant in filing the written statement within time. He is liable to compensate this negligence in terms of money. There is a delay of 4 years in filing the written statement in this case. Hence I am satisfied that the defendant shall deposit Rs.3,000/- in the court as cost. Once the cost is paid this petition stands dismissed.

In the result, the petition stands allowed.

Dictated to the Confdl.Asst., transcribed by her, corrected by me and pronounced in open court on this the 16th day of December, 2025.

Sd/-
KARTHIKA.K.,
MUNSIFF

Appendix-NIL

Id/-
MUNSIFF
(By order)

//True copy//

Junior Superintendent

copied by:KS
compared by: