

DAA Adv said IA may be allowed on cost.

ORDER on IA no. 2

The defendant no.3 and 4 have filed IA no.2 U/o 8 Rule 1 R/w sec. 151 of CPC seeking permission for filing Written statement on the ground that they have already filed objection to IA no. 1 and they are under the impression that they have also filed written statement but recently they came to know that they have not filed written statement. Therefore prays to allow the application and permission for filing written statement. The advocate for plaintiff has said IA may be allowed on heavy cost

Perused the application. It is a suit for partition and declaration. The defendant no. 3 and 4 are alleged to be purchaser of the one of the suit property but they have failed to file Written statement within the time so, now they filed the application seeking permission.

In order to give a chance to defendant no. 3 and 4 and to decide the case on merits it requires a full pledge trial. The defendant have to file Written statement within 90 days from the date of service of summons as per order 8 rule 1 of CPC, but in judgment of the Hon'ble Supreme court (2020) 2 SCC

708 held that Order 8 rule 1 is directory in nature but not mandatory. Further it is also held that in special circumstances the court has power to allow the defendant for filing the Written statement even beyond 90 days.

If the application is not allowed the defendant no. 3 and 4 will be put to hardship and loss that cannot be compensated in terms of money. By allowing the application it will not cause any irreparable loss to the plaintiff. In order to decide the case effectively it is appropriate to allow the application by imposing suitable cost. Hence I proceed to pass the following.

ORDER

The IA no. 2 filed by the defendant no.3 and 4 U/o 8 Rule 1 R/w sec. 151 of CPC is hereby allowed on cost of Rs. 1,000/- in the ends of justice and equity.

The Written statement of defendant no.3 and 4 taken on record.

Await mediation report.

Call on 11-06-2026.

Sd/-

(Shankarappa Malashetti)
IV Addl. Sr. Civil Judge and
JMFC, Belagavi