

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3853 of 2014

ORDER :

This Revision is filed challenging the Docket Order dt.16.10.2014 in I.A.No.56 of 2014 in O.S.No.39 of 2005 on the file of IV Additional District Judge (F.T.C.), Narsapur (for short, 'the impugned order').

2. The petitioners herein are defendant nos.1 and 2 in the above suit.
3. By the impugned docket order, the Court below rejected the application to re-call DW.2 and permitted the petitioners to cross-examine her. Earlier, the court below had allowed the said I.A. on payment of costs of Rs.200/- and on condition of completion of cross-examination of DW.2 who was directed to be present on 11.08.2014, positively. On 11.08.2014, DW.2 was present but the counsel for respondents sought time, and thereafter, DW.2 did not present himself on 25.08.2014, 28.08.2014, 26.09.2014 and 16.10.2014. The court below therefore felt that the order dt.04.08.2014 was not complied with as per its directions and since the suit is an old suit, it dismissed I.A.No.56 of 2014.
4. Challenging the same, the present Revision is filed.
5. Although notice in the Revision has been served on respondent nos.1 and 2, none appears on their behalf.
6. Sri P. Rama Mohan, appearing for 3rd respondent stated that he

has no objection if the Revision is allowed.

7. Having regard to the fact that the witness, who was sought to be cross-examined, was himself not present on 25.08.2014, 28.08.2014, 26.09.2014 and also on 16.10.2014, merely because on 11.08.2014 time was sought for cross-examination by the respondents, the petitioners cannot be penalized.
8. Therefore, the impugned docket order is set aside. The witness DW.2 shall appear before the Court below on 31.08.2015 positively, and on that day the petitioners shall be permitted to cross-examine DW.2.
9. Accordingly, the CRP is allowed and the impugned docket order dt.16.10.2014 in I.A.No.56 of 2014 in O.S.No.39 of 2005 on the file of IV Additional District Judge (F.T.C.), Narsapur is set aside and the said I.A. is allowed subject to the above conditions. No order as to costs.
10. Since the suit is an old suit, the Court below is directed to dispose of the suit within a period of four (04) months from the date of receipt of a copy of this order.
11. As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 31-07-2015

Ndr/*

Note :

Issue C.C. in four (04) days.

B/o.

Ndr/*