

Mr. Mandar Limaye for Petitioners.
Mr. V. A. Shastry for Respondent No.1.

P.C. :

3. The learned Counsel appearing for the parties state that the next date of hearing before the trial Court is 30.04.2016. Mr. Limaye assures

that if the impugned order is set aside, defendants will face cross-examination on 30.04.2016. Mr. Limaye states that defendants do not want to examine any other witness than Mr. H. N. Manjarkar. He further states that if the witness of defendants does not appear on that date, the impugned order may be revived without further reference to the Court. He further states that on or before 20.04.2016, petitioners will deposit Rs.15,000/- as and by way of cost in the trial Court under due intimation to the Advocate for plaintiff.

4. By the impugned order, the learned trial Judge struck out the evidence on the ground that defendants failed to appear for cross-examination though they had filed affidavit in lieu of examination in chief on 07.03.2015. As now, defendants have assured that they will face cross-examination by appearing in the trial Court on 30.04.2016, in order to give opportunity to the defendants, impugned order is set aside subject to defendants depositing Rs.15,000/- in the trial Court on or before 20.04.2016 under due intimation in writing to the plaintiff's Advocate. Plaintiff is at liberty to withdraw that amount unconditionally. It is made clear that if the defendants do not deposit the amount as ordered, the impugned order shall stand revived without further reference to the Court and the evidence of the defendants shall stand struck out. Rule is made absolute in the aforesaid terms.

(R. G. KETKAR, J.)

Minal Parab