

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**C.R.P.No.1708 of 2016**

**ORDER :**

This Civil Revision Petition is filed challenging the order dt.18.02.2016 in I.A.No.33 of 2016 in O.S.No.262 of 2008 of the VI Additional District Judge (FTC), Narasapur, West Godavari District.

2. Petitioners are defendants in the above suit. They filed I.A.No.33 of 2016 before the Court below to recall PW1 for cross-examination by setting aside the order dt.09.12.2015, whereunder their right to cross-examine PW1 was forfeited on the ground that their counsel did not cross-examine PW1 on that day. Taking a sympathetic view, the Court below allowed the said application on condition of completion of cross-examination of PW1 on payment of costs of Rs.500/- to PW1 on 24.02.2016, with a further direction to the petitioners to complete their evidence too, on the same day positively.

3. However, the condition imposed by the Court below was not fulfilled by the petitioners. They did not pay costs of Rs.500/- to PW1 and they also did not cross-examine PW1 on 24.02.2016. They also did not complete their evidence on that day, in spite of the specific direction of the Court and in spite of the order being in their favour.

4. The petitioners have now come up with this application stating that their counsel could not find out regarding the costs amount and that the trial Court ought to have received Rs.500/- towards costs and granted permission to cross-examine by fixing any date. It was also contended that order passed by the Court below was not shown either in the court proceedings record or on the web.

5. Counsel for the respondents however contends that the Court below had given notice of pronouncement of the order and the order was pronounced in the open Court and the counsel for the petitioners was aware of the said order.

6. It is pertinent to note that the order was pronounced on 18.02.2016 and even the copy application in respect of a copy of the said order was made on 26.02.2016, two days after the time fixed for completion of cross-examination of PW1 on payment of costs of Rs.500/-, which expired by 24.02.2016. This shows the very casual approach of the petitioners. Moreover the order passed by the Court below would have been pronounced in the open Court and it was the duty of the petitioners and their counsel to note down the conditions in the said order and comply with them, keeping in view the fact that their conduct in repeatedly taking time was condoned by the court below by taking a liberal view. Therefore, the petitioners cannot be allowed to take advantage of their own negligence and demand that the Court should receive the amount as and when they choose to pay it and permit them to cross-examine PW1 on whichever day they wish to cross-examine. No indulgence can be shown to the petitioners for their negligent attitude. So the time granted by the Court below is not liable to be extended under any circumstances.

7. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

8. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

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**M.S.RAMACHANDRA RAO, J**

03<sup>rd</sup> June, 2016.

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