

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 5903 OF 2016

ORDER :

The petitioners herein are the defendants in O.S. No. 137 of 2008 on the file of the Court of the V Additional District Judge at Nellore filed for recovery of certain amount. Trial commenced and the suit was posted for defendants' side evidence on 15.02.2016 and the same was adjourned for further evidence to 22.02.2016, on which date, unfortunately, according to the petitioners, their Advocate did not turn up due to ill-health and the request made by him to some other Advocate to represent the matter also turned futile. Hence, their evidence was closed and the suit was posted for arguments on 29.02.2016. At that stage, on 30.06.2016, the petitioners filed I.A.No. 423 of 2016 to reopen the case for adducing evidence of some of the rice mill employees and electricity employees apart from bank authorities to prove their case. That Application came to be dismissed by the learned Judge by order dated 10.08.2016 on the ground of lack of *bona fides* and that the witnesses whom the petitioners seek to examine are not material witnesses to prove their case. Challenging the said order, this Revision has been filed.

Heard Sri T.C. Krishnan, learned counsel for the petitioners. He fairly submits that the learned Judge ought to have imposed some terms and allowed the petitioners to adduce evidence.

In the facts and circumstances of the case and in view of the fair submission made by the learned counsel, in the interests of

justice, this Court feels it appropriate to give one opportunity for the petitioners to adduce further evidence, if any, subject to the following conditions:

- 1) The petitioners-defendants shall furnish a list of the witnesses whom they desire to examine, as this is a mandatory requirement which ought to have been insisted at the very beginning.
- 2) The entire evidence on the part of the petitioners-defendants shall be completed within two months from the date of receipt of a copy of this order.
- 3) The petitioners shall pay costs of Rs.10,000/- (Rupees ten thousand only) to the respondent-plaintiff through a demand draft drawn in his favour and file a memo to that effect, within one week from the date of receipt of a copy of this order.
- 4) Failure to comply with any one of the conditions mentioned supra, would entitle the learned Judge to close the evidence and proceed with the arguments on day to day basis and pronounce the judgment.

Subject to the above, the Civil Revision Petition stands allowed. Consequently, the order dated 10.08.2016 in I.A.No. 423 of 2016 is set aside. No costs.

Consequently, the miscellaneous Applications, if any shall stand disposed of.

Registry to dispatch a copy of this order to the learned V
Additional District Judge at Nellore forthwith.

02nd December 2016

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CHALLA KODANDA RAM, J

