

**The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

**Civil Revision Petition No.5744 of 2017**

**Dt: 03-11-2017**

**Between:**

Gunturu Venkata Narasimha Rao and 2 others

**....Petitioners**

**and**

Sri Vadlamani Surya Satyanarayana Murthy  
& 14 others

**....Respondents**

**Counsel for the Petitioners:** Mr.M.Chalapati Rao

**Counsel for the respondents:** Mrs.A.Padma

**The Court made the following:**



**Order:**

The petitioners, who are defendant Nos.8 to 10 in OS.No.238 of 2010 on the file of the VI Additional District Judge, Visakhapatnam, filed this Civil Revision Petition feeling aggrieved by Order, dated 06-10-2017, in IA.No.797 of 2017 filed therein.

A perusal of the record shows that PW.1 was examined in chief and Exs.A.1 to A.25 were marked on his behalf on 22-08-2017. His cross-examination on behalf of defendant Nos.1 to 3 was completed in the subsequent two hearings. On 22-09-2017, the Counsel for the petitioners represented that he is unable to contact the petitioners on phone. Therefore, the cross-examination on behalf of the petitioners was recorded as NIL. Immediately, after reopening of the Court after Dasara vacation, the petitioners have filed the afore-mentioned IA for recalling PW.1 for cross-examination. This Application was dismissed by the lower Court.

While I do not find fault with the lower Court for the keenness shown by it to dispose of the pre-2012 cases, the facts of the case would show that as the petitioners were not present on the day when the cross-examination of PW.1 by defendant Nos.1 to 3 was completed, the cross-examination on the petitioners' side was recorded as NIL. The promptitude with which the petitioners have acted is evident from the fact that on the reopening day of the Court after Dasara vacation, they filed the application for recalling PW.1. While disposal of the old cases on a war footing is the need of the hour, at the same time, the Courts

must keep in mind the consequences of denial of a reasonable opportunity to the litigants to contest the cases.

Though Smt.A.Padma, learned Counsel for respondent Nos.1 to 3 /plaintiffs, has vehemently opposed this petition, in the facts and circumstances of the case, I am of the opinion that in the interests of justice, the petitioners are entitled to an opportunity to cross-examine respondent Nos.1 to 3/plaintiffs.

Accordingly, Order, dated 06-10-2017, in IA.No.797 of 2017 in OS.No.238 of 2010 on the file of the VI Additional District Judge, Visakhapatnam, is set aside. The petitioners shall cross-examine PW.1 on or before 17-11-2017 and the Court below shall issue notice to PW.1 for being present on any one of the dates before the above stipulated date to enable the petitioners' Counsel to cross-examine him. It is made clear that if the petitioners do not avail this opportunity, the lower Court is entitled to proceed further with the case.

The Civil Revision Petition is, accordingly, allowed.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

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**(C.V.Nagarjuna Reddy, J)**

**Date: 03-11-2017**  
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