

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 5437 OF 2017

ORDER:

This Revision is directed against the order dated 13.07.2017, by which the learned Principal District Judge, Nellore dismissed E.A.No. 68 of 2016 in E.P.No. 26 of 2009 in O.S.No. 7 of 1960, for default.

As can be seen from the order under revision, the petitioners having filed the claim petition in relation to E.P. schedule property and having filed an affidavit in lieu of chief-examination of P.W.1 i.e. the 3rd petitioner herein, failed to turn up for cross-examination. In those circumstances, the E.A. was closed, resulting which there would be no evidence on record on behalf of the petitioners/applicants. However, considering the circumstances in which P.W.1 was not present on that day, as set out in the affidavit filed in support of the Revision, if an opportunity is given to the petitioners, putting them on strict conditions, it would serve the interests of justice.

In those circumstances, subject to the condition of the petitioners paying a sum of Rs.20,000/- (Rupees twenty thousand only) to the decree-holder and subject to the condition that P.W.1 shall be present before the Court for the purpose of cross-examination, on the date fixed by the learned Principal District Judge, the EA is restored to file. It is made clear that the learned Principal District Judge is under no obligation to accommodate the petitioners on the dates other than the one fixed for cross-examination.

The Civil Revision Petition is accordingly, allowed. No costs.

Registry, to dispatch a copy of this order forthwith so as to enable the learned District Judge to fix the date for cross-examination of P.W.1.

CHALLA KODANDA RAM, J

16th October 2017

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