

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.1390 of 2018

ORDER

The petitioners are the plaintiffs in O.S.No.4 of 2012 on the file of the learned Special Sessions Judge for Trial of SC & ST (POA) Act-cum-VII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar. They filed I.A.Nos.1603, 1604 and 1605 of 2016 therein seeking reopening of the suit; to permit them to call the Branch Manager, Axis Bank, Retail Assets Centre, Secunderabad, for giving evidence; and to call upon the Person-in-Charge, Aparna Property Management Services Private Limited, Hyderabad, to give evidence. All three I.As. were ordered on payment of costs of Rs.1,000/- in each I.A., payable to the defendants.

It appears that the proposed witness in I.A.No.1605 of 2016, being the Person-in-Charge, Aparna Property Management Services Private Limited, Hyderabad, was present before the Court below on 27.03.2017 but sought time to produce the records. He was accordingly bound over and the matter was adjourned to 06.04.2017. However, he was absent on the said day and the matter was posted to 18.04.2017. As the witness was absent even on that day, the matter was adjourned to 15.06.2017. The matter was then taken up on 29.06.2017 by the Court below and again, the witness was called absent. The office was accordingly directed to issue a show-cause notice to the witness for his non-appearance on payment of process by the plaintiffs. For steps, the matter was directed to be called on 18.08.2017. On 18.08.2017, as the counsel for the plaintiffs was also absent and as no steps had been taken for payment of process to issue a show-cause notice to the witness, the trial Court closed the

plaintiffs' evidence and adjourned the matter for arguments. It is against this order that the present civil revision petition was filed.

Heard Sri A.K.Kishore Reddy, learned counsel for the petitioners/plaintiffs, and Sri T.Bala Mohan Reddy, learned counsel for respondent No.3. Respondent No.1 was shown as a not necessary party to the civil revision petition and respondent No.2, despite service of notice by the learned counsel for the petitioners/plaintiffs by registered post with acknowledgement due, did not choose to enter appearance before this Court.

Though it appears that there was a lapse on the part of the petitioners/plaintiffs in paying the process for issuance of a show-cause notice to the witness, the fact remains that it was the witness who was at fault for not being present despite being bound over on no less than three occasions. Further, the delay on the part of the petitioners/plaintiffs in filing this civil revision petition is also explained in the affidavit filed in support of the interlocutory petition. It is stated that the counsel for the petitioners/plaintiffs shifted his residence and in that process, the certified copy of the order under revision was misplaced and upon the same being detected, steps were taken to file this revision petition.

Given the totality of the circumstances, this Court is of the opinion that one opportunity may be given to the petitioners/plaintiffs to examine the witness in I.A.No.1605 of 2016. The trial Court shall accordingly allow one opportunity to the petitioners/plaintiffs to pay the process fee for issuance of a show-cause notice to the witness. As and when the said witness presents himself along with records, the parties may be permitted to examine him in one go on a single day.

The civil revision petition is accordingly disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

Date:06.04.2018

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