

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.3384 of 2017

ORDER:

This civil revision petition is filed by the defendants, under Article 227 of the Constitution of India, assailing the order dated 11.4.2017 passed in I.A. No.1317 of 2016 in O.S.No.279 of 2014 on the file of the Senior Civil Judge Court, Narsapur, West Godavari District.

2. Heard the learned counsel for both the parties.

3. The point that arises for consideration in this revision petition is:

Whether there is any illegality, irregularity or impropriety in the impugned order?

4. The respondent filed O.S.No.279 of 2014 against the petitioners for recovery of the suit amount basing on the promissory note dated 10.11.2011. During the course of trial, on behalf of the respondent, chief examination affidavits of P.Ws.1 to 3 were filed. For one reason or the other, the petitioners did not choose to cross-examine P.Ws.1 to 3. Having no other alternative, the trial Court closed the evidence of P.Ws.1 to 3. At that stage, the petitioners filed I.A.No.1317 of 2016 to reopen the matter for the purpose of cross-examination of P.Ws.1 to 3. The respondent filed counter opposing the petition. The trial Court, after affording reasonable opportunity to both the parties, dismissed the petition. Hence, the revision.

5. A perusal of the record reveals that the petitioners did not choose to cross-examine P.Ws.1 to 3 despite reasonable opportunity given to them. It is the case of the petitioners that due

to mis-communication between them and their counsel appearing before the trial Court, they could not cross-examine P.Ws.1 to 3. The very purpose of cross-examination of witness is to elicit the truth and eventually to substantiate the stand taken by the party, who cross-examined the witness. If no opportunity is given to the petitioners to cross-examine P.Ws.1 to 3, it may cause prejudice to their right. If the petition is allowed, without any conditions, it may cause prejudice to the rights of the respondent. While passing the orders in interlocutory applications, the Court has to strike balance between the parties.

6. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to set aside the impugned by imposing certain conditions.

7. In the result, the civil revision petition is allowed, setting aside the order dated 11.4.2017 passed in I.A.No.1317 of 2016. Consequently, I.A.No.1317 of 2017 in O.S.No.279 of 2014 on the file of the Senior Civil Judge Court, Narsapur, is allowed on condition of the petitioners depositing Rs.2,00,000/- to the credit of O.S.No.279 of 2014 within a period of three months from today. On such deposit, the trial Court is hereby directed to permit the petitioners to cross-examine P.Ws.1 to 3. If the petitioners fail to deposit the amount, as directed by this Court, the trial Court is at liberty to proceed with the suit in accordance with law. Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 24.12.2018
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