

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3744 of 2018

ORDER :

Heard the counsel for petitioners, and Sri C.M.R. Velu, counsel for respondent.

2. This Civil Revision Petition is filed challenging the order dt.22.06.2018 passed in I.A.No.301 of 2018 in O.S.No.229 of 2012 on the file of Principal Senior Civil Judge, Tirupati refusing to re-open the evidence of petitioners to adduce further evidence by them.

3. Admittedly, the evidence was closed on 30.04.2018 to enable the petitioners to adduce further evidence, but on that date there was no representation till 04:00 p.m., and on that ground their evidence was closed by the Court below. Later the matter was adjourned to 02.05.2018, the last date before the summer vacation commenced, and subsequently to 05.06.2018, on which date arguments were to be heard.

4. On 06.06.2018, the present application had been filed by the petitioners to re-open their evidence and permit them to adduce further evidence stating that on 30.04.2018, the witnesses were not available and could not be produced.

5. The Court below rejected the said application stating that it was done with intent to protract the trial and cause inconvenience to respondent who is a Senior Citizen.

6. The counsel for petitioners contended that the failure of petitioners to produce their witnesses on 30.04.2018 cannot be a ground to close their evidence without giving them one more opportunity, at least, to do so. He states that his clients are willing to file affidavits in lieu of chief-examination of the other witnesses sought to be examined by them by 20.08.2018.

7. Though the counsel for respondent opposed the same, since the Court below could not have simply closed the evidence of petitioners on the ground that on 30.04.2018 there was no representation and since it is the case of petitioners that witnesses sought to be examined on that day were unavailable, in the interests of justice, the order dt.22.06.2018 passed in I.A.No.301 of 2018 in O.S.No.229 of 2012 on the file of Principal Senior Civil Judge, Tirupati is set aside; the said I.A. is allowed.

8. The petitioners are directed to file their affidavits in lieu of chief examination of all their proposed witnesses on 20.08.2018 by serving them in advance on the counsel for respondent and also produce the witnesses for cross-examination on that day or any later date which may be fixed by the Court below.

9. If the petitioners commit any default in doing the above acts, the Civil Revision Petition shall stand dismissed without further reference to the Court.

10. Accordingly, the Writ Petition is allowed. No order as to costs.

11. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10.08.2018

Note : Issue C.C. in three (03) days.
B/o.

Ndr/*

