

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

C.R.P.NO.1052 OF 2014

ORDER:-

This revision petition is filed questioning the order dated 05-03-2014 passed in I.A.No.381 of 2014 in I.A.No.193 of 2014 in O.S.No.699 of 2012 on the file of the Court of II Additional Chief Judge, City Civil Court, Hyderabad.

2. The suit is filed for recovery of money by a Chit Fund Company. On 18-12-2013 the matter was listed for cross examination of PW.1. As the counsel was not present and there was no representation by the party, the right to cross examine was forfeited on 18-12-2013. Thereafter, I.A.No.193 of 2014 was filed to reopen the matter.

3. In the affidavit filed in support of the I.A.No.193 of 2014, it was mentioned that date was wrongly noted as 28-12-2013 instead of 18-12-2013. This was the reason given for the failure to appear on 18-12-2013. On 07-02-2014 this application was dismissed as there was no representation for the petitioner once again.

4. Thereafter, I.A.No.381 of 2014 was filed on 17-02-2014 seeking permission of the court to restore I.A.No.193 of 2014, so that the defendants would have a chance to cross examine the witness. This application I.A.No.381 of

2014 was dismissed on 05-03-2014. Questioning the said order, the present revision petition is filed.

5. This court has heard the learned counsel for the petitioners, who pointed out that due to an initial error committed in noting the date, there was no representation when the matter was posted for cross examination on 18-12-2013. He further points out that soon thereafter the petitioner filed an application seeking permission to reopen the matter (I.A.No.193 of 2014). That was dismissed on 07-02-2014 and immediately I.A.No.381 of 2014 was filed stating that on 07-02-2014 counsel was held up in another court and that there was wanton or deliberate inaction. The learned counsel submits that instead of considering I.A.No.381 of 2014 on its own inherent merits, the court went into the previous conduct of the parties and dismissed the application.

6. In response thereto, the learned counsel for the respondents submits that adequate opportunities were given to the revision petitioners and despite the same, they have not participated in the trial. It is his contention that the impugned order does not suffer from any mistakes or irregularities warranting interference by this court nor is there any wrongful exercise of jurisdiction.

7. This court after hearing both the learned counsel is of the opinion that although it could be said that there are some lapses on the part of the revision petitioners, still the interest of justice require that the petitioners who are the defendants in the suit should be given an opportunity to participate in the trial. This court also finds that the petitioners cannot be said to be guilty of any inordinate delay as the applications are filed with a fair amount of promptitude. Therefore, in order to see that ends of justice are met, this court is of the opinion that one more opportunity should be given to the revision petitioners to participate in the trial and cross examine PW.1. Counsel for the revision petitioners state that his clients will cooperate fully in the trial and not make any requests for adjournments.

8. Noting the said submissions the Civil Revision Petition is allowed.

9. The revision petitioners are being given an opportunity to cross examine PW.1 only. Requests for adjournments should be dealt with firmly and as per the law. The learned counsel for the respondents submits that as per his instructions the suit was disposed of. Counsel for the revision petitioners state that only judgment is reserved. This court is pronouncing this order based on the

submissions made by the learned counsel for the petitioners that the judgment is not pronounced. If the judgment is pronounced already, the law will take its own course. If the suit is not disposed, this entire exercise of cross examination of PW.1 and disposal of suit should be completed within a period of four weeks from today. No costs. The interlocutory applications pending, if any, shall stand closed in consequence.

27-11-2018
TSNR

D.V.S.S.SOMAYAJULU,J

