

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.581 of 2019

ORDER:

This Revision is filed challenging the Docket Order passed by the II Additional District Judge, Ranga Reddy District at L.B.Nagar in O.S.No.460 of 2012 on 30.01.2019 eschewing the evidence of DW1.

2. Petitioners are defendants in the suit filed by the respondent against them for specific performance of an Agreement of Sale dt.09.01.2012. It appears that the 2nd petitioner was impleaded subsequently in the suit by order dt.12.09.2017 in I.A.No.2325 of 2012.

3. Written statement was filed by both the petitioners opposing the suit claim.

4. The evidence on the plaintiff's side was closed on 10.10.2018; matter was posted for the evidence of respondents; an affidavit of DW1 in lieu of chief examination was filed on 20.12.2018 and the Court adjourned the matter to 22.01.2019 for marking of documents and for cross-examination of DW1.

5. On 22.01.2019 DW1 did not appear and there was no representation on her behalf. Copy of the chief examination affidavit of DW1 was also not served on the plaintiff and so on imposition of costs of Rs.100/- matter was adjourned to 29.01.2019.

6. On 29.01.2019 the Presiding Officer was on leave and the matter was posted to 30.01.2019, and on 30.01.2019 counsel for DW1 did not appear and there was no representation on behalf of the DW1. Costs were also not paid and evidence affidavit was not served on the respondent/plaintiff and so the Court below eschewed the evidence of DW1 and posted the matter for further evidence of defendants on 06.02.2019.

7. It appears that on 06.02.2019 also no witness was present on behalf of the petitioners and so the defendants' side evidence was closed and the matter was posted for arguments on 13.02.2019.

8. Why the 2nd petitioner, who ought to have led evidence when the evidence of DW1 was eschewed, did not appear and give evidence, was not explained by the petitioners.

9. It is the contention of the petitioners that the counsel for the petitioners fell sick between 30.01.2019 and 06.02.2019. But the sickness of the counsel for petitioners is irrelevant because it was the duty of the petitioners to serve copy of the chief examination affidavit of DW1 as per the direction of the Court on 20.12.2018 and they did nothing in that regard. Also for cross-examination of DW1, it is necessary for DW1 to be present and undergo cross-examination by counsel for respondent. Why DW1 was absent is also not explained by the petitioners. It appears that petitioners were under wrong impression that by merely

absenting themselves in the Court below they can delay the proceedings in the suit indefinitely. The conduct of the petitioners does not inspire any confidence since they were careless and negligent towards the fate of the suit.

10. Therefore, I do not find any error of jurisdiction in the order passed by the Court below closing the evidence of the petitioners and proceed to hear the arguments in the suit.

11. Accordingly, this Civil Revision Petition fails and it is dismissed. No order as to costs.

12. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

18th June, 2019.

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