

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

CRP.No.2861 of 2017

ORDER:

Heard counsel for the petitioner.

2. None appears for respondents 2 to 4, though notice to respondents 2 to 4 has been served.

3. This Revision is filed challenging the order dt.10.04.2017 in IA.No.305 of 2016 in OS.No.124 of 2008 of the Senior Civil Judge, Jagtial.

4. Petitioner herein is the defendant in the above suit.

5. On 15.03.2016, the matter was posted for cross-examination of the petitioner as DW1 and marking of documents on his behalf, but the petitioner could not be present and his counsel too did not appear as he was preoccupied in other matters, and so the Court eschewed his chief-examination and posted the matter for further evidence of the petitioner.

6. According to petitioner, for some period he was un-well and that there was a strike by advocates which ended only in July, 2016.

7. Later, there was an agitation by advocates demanding separate High Court for Telangana State and that went-on till July, 2016, and immediately after the agitation was called-off, he

filed I.A.No.305 of 2016 to re-open his evidence to adduce oral and documentary evidence.

8. Counter affidavit was filed by respondents opposing the said application and stating that in spite of giving ample opportunities to petitioner, he did not adduce his evidence and the application is therefore not bona fide.

9. By order dt.10.04.2017, the Court below dismissed I.A.No.305 of 2016. It held that several adjournments had been sought on the side of the petitioner for marking of documents and for his cross-examination and ample opportunity had been given to him but he did not utilize it.

10. Assailing the same, this Revision is filed.

11. Though the petitioner engaged an advocate, he will not be in a position to do anything when the advocates were on boycott.

12. It is no doubt true that there were some lapses on the part of the petitioner D.W.1 in marking of the documents and also in subjecting himself for cross-examination. However, depriving the petitioner of an opportunity to contest the case on merits solely on that ground causes grave prejudice.

13. Therefore, this Civil Revision Petition is allowed; the order dt.10.04.2017 in IA.No.305 of 2016 in OS.No.124 of 2008 of the Senior Civil Judge, Jagtial, is set aside; the said I.A., is allowed subject to the condition of the petitioner depositing costs of

Rs.1,000/- to the credit of the suit within a period of two (02) weeks from the date of receipt of a copy of this order; on such deposit, respondents are permitted to withdraw the same without furnishing any security; and thereafter, the petitioner shall appear before the Court below for marking of documents and submit himself for cross-examination without fail. In default of any of the conditions imposed above, the Civil Revision Petition shall stand dismissed.

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

27th June, 2019.

Note: Issue CC tomorrow.

B/o
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M.S. RAMACHANDRA RAO, J