

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

CRP. Nos.5713 and 5716 of 2016

COMMON ORDER:

These two Revision petitions are being disposed of by this common order because the same issue arises in them.

2. The petitioners, in both the Revisions, are same and they are the defendants in O.S. Nos.475 and 476 of 2013 on the file of the Principal Junior Civil Judge, Ranga Reddy District at L.B. Nagar.

3. The respondents in the Revision petitions are the plaintiffs in both the suits. Both the suits are filed for perpetual injunction.

4. On behalf of the respondents/plaintiffs in both the suits, P.W.1 was examined on 07.09.2015 and the matter was then posted for cross-examination by the petitioners.

5. The petitioners did not cross-examine the P.W.1 but filed I.A. Nos.719 and 896 of 2015 in O.S. Nos.475 and 476 of 2013, respectively, seeking adjournment.

6. Both the said applications were disposed of on 21.04.2016.

7. Thereafter, the petitioners did not choose to cross-examine the P.W.1 and filed adjournment petitions stating that a Revision filed against the order rejecting the application under Order VII Rule 11 of CPC, and it was pending before this Court.

8. The Court informed the counsel for petitioners that the suits are identified matters and unless stay is granted, the Court cannot stop proceeding in the suits. Still the petitioners did not choose to proceed with the suits. So the Court below set the petitioners *ex parte* and posted the matter for further consideration.

9. Assailing the said docket orders, these Revisions petitions are filed.

10. The learned counsel for the petitioners contends that the failure of the petitioners, who are Schedule Caste Community persons to contest the cross-examination of P.W.1 is neither willful nor wanton, and that they were under the impression that CRP. No.3036 of 2016, which was filed before this Court challenging the order refusing to reject the plaint in O.S. No.476 of 2013, is pending in the High Court, and there was also WASR.No.90932 of 2016 pending before this Court and they were expecting favourable order therein.

11. The learned counsel for the respondents sought to sustain the orders passed by the Court below.

12. Having regard to the fact that the petitioners belong to the Schedule Community and there was possibility of them being misled that they may succeed in CRP. No.3036 of 2016 though it has been dismissed today, vide a separate order, to meet the ends of justice, I deem it appropriate to set aside the orders passed by the Court below, in both the suits setting the petitioners *ex parte* on payment of costs of Rs.1,000/- (Rupees one thousand only) to be paid by the petitioners to the respective respondents, within a period of two weeks from the date of receipt of a copy of this order; and also on the condition the counsel for the petitioners shall cross examine P.W.1, who

shall be recalled by the Court below, within a period of one month, from the date of receipt of a copy of this order. In default of payment of the said costs and on failure to cross-examine P.W.1 in both the suits as aforesaid, these Revision petitions shall stand dismissed.

13. In the result, these Revision Petitions are disposed of. There shall be no order as to costs.

14. As a sequel, miscellaneous applications, if any, pending shall stand closed.

Date: 08.03.2019.
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JUSTICE M.S. RAMACHANDRA RAO

