

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.1561 of 2019

ORDER :

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.24-06-2019 in O.S.No.430 of 2016 of the XI Junior Civil Judge, City Civil Court, Secunderabad.

2. Petitioners herein are plaintiffs in the said suit.
3. The said suit was filed for perpetual injunction restraining the respondent from interfering with alleged peaceful possession and enjoyment of the suit schedule property by petitioners.
4. After evidence on petitioners side was closed, the respondent/defendant filed chief-examination affidavit on 09-04-2019 and marked Exs.B-1 to B-17.
5. On the request of counsel for petitioners, matter was adjourned to 30-04-2019.
6. On 30-04-2019, time was sought by the counsel for petitioners and on payment of costs of Rs.200/-, the matter was adjourned to 10-06-2019.
7. On 10-06-2019, the Presiding Officer was on Casual Leave and the case was posted to 18-06-2019.
8. On 18-06-2019, D.W.1 appeared, but neither the petitioners nor their counsel appeared or made any request and even the costs, which

was directed to be paid on 30-04-2019, were not paid. So the cross-examination of D.W.1 was treated as Nil and the matter was posted to 21-06-2019.

9. On 21-06-2019, an application was filed to cross-examine D.W.1 and it was allowed, and the matter was posted to 24-06-2019 for cross-examination of D.W.1. After cross-examining the witness for some time, the counsel for petitioners again asked for time.

10. The Court below, while noting that several opportunities had been given to the counsel for petitioners to cross-examine D.W.1, rejected the request and closed the evidence of D.W.1 and posted the matter for hearing arguments.

11. Assailing the same, this Revision is filed.

12. Learned counsel for petitioners contended that if opportunity is not granted to the petitioners to cross-examine D.W.1 more than what was done, grave and irreparable loss would be caused to the petitioners.

13. Learned counsel for respondent refuted the said contention and supported the order passed by the Court below. He pointed out that the conduct of the counsel for petitioners has been such that would disentitle him to any further opportunity to cross-examine D.W.1. He stated that on 30-04-2019 though costs were directed to be paid at the request of the counsel for petitioners, the matter was adjourned to 10-06-2019, the costs were not paid and when the matter was next

taken up on 18-06-2019, though witness was present, neither the petitioners nor their counsel were present and there was no representation on their behalf; and though the Court showed sympathy in allowing I.A.No.19 of 2019 and permitted the petitioners to cross-examine D.W.1 on 24-06-2019, instead of completing the cross-examination on the said day, again time was sought by the petitioners' counsel. This conduct of the petitioners, it is contended, shows the attitude of prolonging the matter.

14. I find considerable force in the contention of the learned counsel for respondent. The attitude of the petitioners and their counsel appears to be very casual. They should have availed the opportunities granted by the Court below to cross-examine D.W.1 when it was to take place on 13-04-2019, 18-06-2019 and 24-06-2019. The Court below cannot be expected to prolong the matter indefinitely for the convenience of petitioners or counsel for petitioners.

15. Therefore I see no error of jurisdiction in the order passed by the Court below warranting interference by this Court in exercise of its power under Article 227 of the Constitution of India.

16. The Civil Revision Petition fails and it is accordingly dismissed. No costs.

17. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23-08-2019

Vsv

