

THE HON' BLE DR. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION Nos.6259 and 6513 OF 2017

COMMON ORDER:

These revisions are filed by the petitioners/ defendants 2 and 4, aggrieved by the common order dated 03.11.2017 in I.A.Nos.533 and 534 of 2017 in O.S.No.4139 of 2009 passed by the IX Junior Civil Judge, City Civil Court, Hyderabad.

2. Heard both sides.

3. No doubt, the lower Court, in its order impugned has given reasons in dismissal of the applications, more particularly for the reason that PW.2 was cross examined on 01.03.2017 and while case was coming for further evidence of plaintiff and three more adjournments given till 09.03.2017 and on 09.03.2017, the plaintiff's evidence was closed and posted to 14.03.2017 for defendants' evidence and there from on 10.08.2017 as a last chance posted to 16.08.2017 and on 16.08.2017, the defendants' evidence was closed, by posting the matter for arguments. It is mainly the reason assigned by the defendants in not adducing their evidence, though, not a sufficient ground of there is a calamity of some relative died and the alleged ill-health of one of the defendants and the regular Presiding Officer was not holding the Court and it is not even a case of there is no any full additional charge nor a case that the Officer as Full Additional Charge is not taking up any matter. However, that is not an end all to shun the opportunity as without the evidence of the defendants, they lost

the valuable defence in the suit claim, thereby, instead of further giving life to the litigation in maintaining appeal and ultimately remanding, to sub-serve the ends of justice, it is just to set aside the dismissal order of the lower Court by affording opportunity to the defendants to submit how many witnesses to be examined and file the chief affidavits of said witnesses on or before 30.11.2017, for the lower Court to fix cross examination of them either to record by the lower Court or to appoint an advocate commissioner as per the exigency to proceed further with the matter.

4. With the above observations, the Civil Revision Petitions are allowed, subject to costs of Rs.2,000/- (Rupees two thousand only) payable by the defendants to the plaintiff on or before 30.11.2017, while submitting list of witnesses and chief affidavits. Costs as imposed paid by the learned counsel for the petitioners/ defendants 2 and 4 to the learned counsel for the 1st respondent/ plaintiff in the open Court is recorded for nothing more to pay.

5. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR. B. SIVA SANKARA RAO, J

Date: 22.11.2017
pab