

HONOURABLE SRI JUSTICE UJJAL BHUYAN

C.R.P.No. 179 of 2022

Order:

Heard Mr. M.Surender Rao, learned Senior Counsel for the petitioners, and Mr. V.Venkata Subrahmanyam, learned counsel for the respondents.

2. This revision petition has been filed by the petitioners under Article 227 of the Constitution of India challenging the legality and validity of the order dated 04.01.2022 passed by the III Additional Chief Judge, City Civil Court, Hyderabad, in E.A.No.9 of 2022 in E.A.No.77 of 2007 in E.P.No.109 of 2007 in O.S.No.235 of 2006.

3. Order dated 04.01.2022, reads as under:

“Heard the counsel for petitioner. This Petition is filed seeking reopening of the case for the purpose of recalling RW1 on the ground that the RW1 could not be re-examined on 03-11-2021 because the counsel for petitioner suffered injury, underwent operation and expired on 09.12.2021, as can be seen from the docket orders. On 27-10-2021, the RW1 was examined in Chief and at that time there was no representation by petitioner or his counsel. So, matter posted to 03-11-2021. On that day also, there was no representation by petitioner. So cross-examination of RW1 was recorded as nil and matter posted to 23-11-2021. On that day, there was no representation by petitioner as such conditionally posted to 30.11.2021 with a specific condition that no petitions will be entertained. There from matter adjourned to 03.12.2021. On

that day petitioner reported not ready as such heard the respondent and posted to 20.12.2021 with a specific condition that if the petitioner did not get ready it will be treated as heard and no petitions will be entertained. However, on 20.12.2021, it is reported that counsel for petitioner expired and sought time for arguments as such matter posted to today. It is clear from the docket orders that even after giving opportunity for cross-examination of RW1 the petitioner did not represent. Already several adjournments were taken subsequent to posting the matter for arguments. Only for the purpose of arguments, the matter was adjourned but inspite of specific order passed on 23.11.2021 and on 03.12.2021 that no petitions will be entertained and that petitioner must get ready for arguments, the petitioner came with this petition. Hence not inclined to post matter even for counter. Hence petition is dismissed.”

4. Learned Senior Counsel for the petitioners submits that learned counsel for the petitioners was indisposed due to COVID and subsequently, expired on 09.12.2021. It is for this reason that RW.1 could not be cross-examined on 03.11.2021.

5. Before entering into the rival contentions, court put a query to learned counsel for the respondents, who very fairly submitted that because of the death of the counsel for the petitioners, court may consider granting some time to the petitioners to cross examine R.W.1. However, he submits that considering the fact that the decree is dated 28.10.2006, a short date may be given.

6. After hearing learned counsel for the parties and on due consideration, impugned order dated 04.01.2022, as extracted above, is, hereby, set aside.

7. Petitioners shall cross-examine R.W.1 within a period of three weeks from the date of receipt of a copy of this order.

8. Civil Revision Petition is, accordingly, disposed of. Related interim application is also disposed of.

9. No costs.

UJJAL BHUYAN , J

Date: **08.02.2022**
LUR