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C.A.No. 3480 OF 1998

ITEM NO.102

COURT No.2

SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 3480/1998

State of Rajasthan

Appellant(s)

Versus

Ram Gopal (Dead) Through Lrs. & Ors.

Respondent(s)

(with office report)

With Contempt Petition (C) No. 357/1998

DATE : 18/03/2004

This/These matter/matters was/were
called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
MR. JUSTICE G.P. MATHUR

HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

HON'BLE

For Appellant(s) Ms. Sandhya Goswami, Adv.

For Respondent(s) Mr. Sushil Kumar Jain, Adv.

Ms. Ruchi Kohli, Adv.

Mr. A.P.Dhamija, Adv.

Mr. L.P. Singh, Adv.

Mr. Sarat Sinthania, Adv.

Mr. Punit Jain, Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is allowed. The contempt proceedings shall stand dropped and notice in contempt shall stand discharged.

[Charanjeet Kaur]
Court Master

[Om Prakash]
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3480 OF 1998

State of Rajasthan

Appellant(s)

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Respondent(s)

With Contempt Petition No. 357/1998

O R D E R

C.A. No. 3480/1998

A writ petition was filed before the High Court challenging the validity of a notification issued under Section 3 (4A) of the Rajasthan Monuments Archaeological Sites and Antiquities Act, 1961 (for short "the Act") declaring "Chomu Fort" as a protected monument for the purposes of the Act.

The High Court on a cursory reading of the Act without examining the effect of the relevant provisions of the Ancient Monuments & Archaeological Sites & Remains Act, 1958 (Act 24 of 1958) (for short, the Central Act) and the scope thereof with reference to Entries/Lists of the 7th Schedule to the Constitution allowed the writ petition by stating that the definition of ancient or historical monuments as set out in the

Act does not include any ancient monument as defined under the Central Act and only the Central Act would apply. The writ appeal thereto being unsuccessful, this appeal is filed by special leave.

2

Having gone through the judgment of the Learned Single Judge and of the Division Bench, we are of the view that there is no due application of mind to the relevant provisions of the enactment nor to the constitutional provisions before arriving at a proper conclusion. It is necessary, in the circumstances, therefore, to set aside the orders made by the High Court. Considering the nature of the matter and long pendency of the case, we think it appropriate that the writ petition on being restored shall be decided by a Division Bench of the High Court. Interim order granted by this Court on 11.12.1998 shall continue until disposal of the writ petition before the High Court. The appeal is allowed accordingly.

C.P. No. 357 of 1998

It is not necessary to make any order on the contempt petition. The contempt proceedings shall stand dropped and notice in contempt shall stand discharged.

.....J[S. RAJENDRA BABU]

.....J [D.M. DHARMADHIKARI]

.....J[G.P. MATHUR]

NEW DELHI,
MARCH 18, 2004.