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C.A.No. 3437 OF 1998

Item No.105

COURT No.4

SEC.XV

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

RECORD OF PROCEEDINGS

C.A. No. 3437/1998@@  
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R.S.R.T.C. & Ors.

Appellant(s)

VERSUS

Ram Pratap

Respondent (s)

(With appln.for stay)

Date : 20.02.2001: This appeal was called on for hearing today.@@  
AA

CORAM :

HON'BLE MR. JUSTICE G.B. Pattanaik  
HON'BLE MR. JUSTICE B.N. Agrawal

For Appellants(s) M/s. Pradeep Aggarwal,A.P.Dhamija,Advs.for  
Mr. S.K.Jain,Adv.

For the Respondent (s) Ms. Manjeet Chawla,Adv. (N.P.)

UPON hearing counsel the Court made the following  
O R D E R

.....L.....I.....T.....T.....T.....T.....J.  
.SP2

The appeal is allowed.

.SP1  
(Y.P.Dhamija) (Suneet Bala Sharma)@@  
AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA  
COURT MASTER Court Master

Signed order is placed on the file.

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.PL52

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3437/1998@@  
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R.S.R.T.C. & Ors. ...Appellants

Vs.

Ram Pratap ...Respondent

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....T.....J.  
.SP2

The revisional order of the learned Single Judge of the Rajasthan High Court is the subject matter of challenge in this appeal. The respondent filed a Suit for declaration that the order of the authority directing recovery of the money, which the Government sustained on his negligence, is illegal, invalid and inoperative, and in the said Suit, filed an application for temporary injunction. The learned Trial Judge on consideration of the relevant materials came to hold that the plaintiff has failed to establish a prime facie case, and further balance of convenience lies in not granting an injunction. The Trial Judge also came to hold that the plaintiff will not sustain irreparable loss and injury. With these conclusions, the application for temporary injunction having been rejected, the plaintiff approached the District Judge in appeal. The appellate authority having affirmed the order of the Trial Judge refusing temporary injunction, the

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plaintiff approached the High Court in revision. High Court by the impugned order dated 21.2.1997 without discussing the relevant findings arrived at by the Trial Judge and affirmed by the appellate authority in exercise of its jurisdiction under section 115 set aside the said order and directed that until the Suit is disposed of there should not be any recovery from the salary, obviously allowing the application filed under Order 39 Rule 1 and 2.

It is contended on behalf of the learned counsel for the appellant that the question of injunction has to be decided upon on findings of the three factors, namely, prime facie case, balance of convenience and irreparable loss and injury. All these findings arrived by the trial Judge not having been set aside by the High Court in exercise of its revisional jurisdiction, it was not open for the High Court to grant the relief of temporary injunction. On examining the impugned order of the High Court, we find sufficient force in the same. Learned Judge has not discussed any thing except holding that the amount should not have been deducted without hearing the plaintiff. In our considered opinion, the High Court exceeded its jurisdiction under section 115 of

the Code of Civil Procedure in allowing injunction without

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interfering with the findings of the learned Trial Judge, as affirmed by the lower appellate court. The impugned order passed in the Civil Revision accordingly is set aside. This appeal is allowed.

.SP1

.....J.  
(G.B. PATTANAİK)

New Delhi,  
February 20, 2001

.....J.  
(B.N. AGRAWAL)