

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).18848/2006

(From the judgement and order dated 06/06/2006 in CMPMO No. 258/2005 of the HIGH COURT OF H.P AT SHIMLA)

SHEELA DEVI
VERSUS

Petitioner(s)

ROSHANI DEVI & ANR

Respondent(s)

(With prayer for interim relief and office report)

Date: 03/01/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE V.S. SIRPURKAR

For Petitioner(s) Mr. Rakesh Bhatia,Adv.
Mr. Divesh Verma,Adv.
Mr. A.P. Mohanty,Adv.

For Respondent(s) Mr. Ravi Bakshi,Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted.

Heard the learned counsel for the parties at length.

The impugned judgment is set aside, the matter is remitted to the High Court for consideration of the revision application afresh and the appeal is allowed

in terms of the signed order. However, in the facts and circumstances of this case, there shall be no order as to costs.

(A.S. BISHT)
COURT MASTER

(PUSHAP LATA BHARDWAJ)
COURT MASTER
[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7 OF 2008
[Arising out of SLP(C) No.18848/2006]

SHEELA DEVI ... APPELLANT(S)

:VERSUS:

ROSHANI DEVI AND ANR. ... RESPONDENT(S)

ORDER

Leave granted.

By reason of the impugned judgment the High Court allowed the revision application preferred by Respondent No.1 herein from the judgment and order dated 5.10.2005 passed by the learned Additional District Judge, Una, dismissing Civil Misc. Appeal No.26 of 2004 from an order dated 20th September, 2004 passed by the Civil Judge, Junior Division, Una.

From a perusal of the impugned judgment it does not appear as to on what basis the High Court came to the conclusion that the plaintiff-appellant could not establish a prima facie case. While interfering with the judgment of the Trial Court as affirmed by the Appellate Court on an application filed under Order 39 Rule 1 of the Code of Civil Procedure, the High Court exercises a limited power.

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It was, therefore, obligatory on the part of the High Court to satisfy itself that such orders do not suffer from jurisdictional error. The High Court in exercise of its revisional jurisdiction, it is trite to state, could interfere with such order only when a jurisdictional error is found. Ordinarily, we would not have interfered with such an order, but for large number of decisions of this Court, e.g. Managing Director, Hindustan Aeronautics Ltd., Balanagar vs. Ajit Prasad Tarway, (AIR 1973 SC 76).

For the reasons aforementioned, the impugned judgment cannot be sustained which is set aside accordingly and the matter is remitted to the High Court for consideration of the revision application afresh. The appeal is allowed. However, in the facts and circumstances of this case, there shall be no order as to costs.

.....J
(S.B. SINHA)

.....J
(V.S. SIRPURKAR)

NEW DELHI,
JANUARY 03, 2008.