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Revise

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ITEM NO.601

REVISED
COURT NO.3

SECTION XIIA

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

I N D I A

Petition(s) for Special Leave to Appeal (C) No(s)
9730-9731/2015

(Arising out of impugned final judgment and order dated 13/03/2015 in CRPMP No. 1290/2015,20/03/2015 in CRPMP No. 1394/2015,13/03/2015 in CRP No. 970/2015,20/03/2015 in CRP No. 970/2015 passed by the High Court Of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh)

K. KOTESWARA RAO

Petitioner(s)

VERSUS

SUN TRADING CORPORATION REP. BY ITS GPA HOLDER Respondent(s)
(with appln. (s) for exemption from filing c/c of the impugned judgment and interim relief)

Date : 31/03/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s)

Mr. Shyam Divan, Sr. Adv.
Mr. Annam D. N. Rao, Adv.
Mr. Annam Venkatesh, Adv.
Ms. Vaishali R., Adv.
Ms. Neelam Jain, Adv.
Mr. Sudipto Sircar, Adv.
Ms. G. Swati Pathgotri, Adv.

For Respondent(s)

Mr. Dushyant Dave, Sr. Adv.
Mr. S.S. Prasad, Sr. Adv.
Ms. C. K. Sucharita, Adv.

UPON hearing the counsel the Court made the following

Signature Not Verified

O R D E R

Digitally signed by
Neeta Sapra
Date: 2015.04.06
16:38:17 IST

Taken on Board.

Reason:

The respondent as plaintiff instituted a suit

No. 309 of 2011 seeking certain reliefs. During the

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pendency of the Suit, the learned Trial Judge passed an

interim order of injunction restraining the defendants

from disturbing in the peaceful possession of the

plaintiff. Eventually, after evidence was brought on record, the learned Trial Judge dismissed the Suit.

Being aggrieved by the judgment and decree passed by learned Trial Judge, the plaintiff preferred an appeal being A.S.No. 45 of 2015. In the said appeal I.A. No. 223 of 2015 was filed. Learned XIV Additional District Judge, Vijayawada on 11th March, 2015 passed the following order in the said I.A.:

"Both counsel reported ready. Due to some personal reasons I addressed a letter to the District Judge Court Machlipatnam to transfer the entire case record in this appeal including this IA, to any other competent court from the file of this court to any other court. I informed the said fact to both counsel in the open Court. Adjourn this petition on 23/3/15."

The High Court on 13th March, 2015 entertaining a revision petition under Section 115 of the Code of Civil Procedure, passed the following order:

"It is represented that all through pending the suit, there was interim injunction. Hence, there shall be interim injunction, as prayed for, pending further

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orders."

After the said order was passed, an application under Section 151 of the CPC was filed seeking police help to put the respondent in possession. The High Court passed the following order:

"Having regard to the reasons stated in the accompanying affidavit, there shall be interrim direction as prayed for."

We have heard Mr. Shyam Divan learned senior counsel for the petitioner and Mr. Dushyant Dave, learned senior counsel and Mr. S.S. Prasad, learned senior counsel for the respondents. We are of the considered opinion that the High Court should not have passed the aforesaid in exercise of its revisional jurisdiction when

there was no interim order or refusal or declaration to pass an order of injunction. Such an order was unwarranted. In our considered view, as an order of injunction was in force before the Trial Judge during the pendency of the Suit cause of justice would be best subserved if the learned District Judge, Vijayawada takes up the application for injunction filed by the appellant in appeal, that is I A. No. 223 of 2015 in A.S. No. 45 of 2015 and dispose of the same within six weeks from today.

We, as an ad interim measure, direct for maintenance of status quo existing as on today. The Civil Revision Petition No. 970 of 2015 shall be deemed to have been

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disposed of. The appellate court shall hear the matter of injunction within the parameters for grant of injunction in accordance with law without being influenced by any order passed by any Court.

We make it clear that we have not expressed any opinion on the merits of the case as the direction is issued totally as on ad interim measure.

The special leave petitions are disposed of. No order as to costs.

(Neeta)
Sr. P.A.

(H.S. Parasher)
Court Master

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ITEM NO.601

COURT NO.3

SECTION XIIA

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

Petition(s) for Special Leave to Appeal (C) No(s).
9730-9731/2015

(Arising out of impugned final judgment and order dated 13/03/2015 in CRPMP No. 1290/2015,20/03/2015 in CRPMP No. 1394/2015,13/03/2015 in CRP No. 970/2015,20/03/2015 in CRP No. 970/2015 passed by the High Court Of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh)

K. KOTESWARA RAO

Petitioner(s)

VERSUS

SUN TRADING CORPORATION REP. BY ITS GPA HOLDER Respondent(s)
(with appln. (s) for exemption from filing c/c of the impugned
judgment and interim relief)

Date : 31/03/2015 These petitions were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.
 Mr. Annam D. N. Rao, Adv.
 Mr. Annam Venkatesh, Adv.
 Ms. Vaishali R., Adv.
 Ms. Neelam Jain, Adv.
 Mr. Sudipto Sircar, Adv.
 Ms. G. Swati Pathgotri, Adv.

For Respondent(s) Mr. Dushyant Dave, Sr. Adv.
 Mr. S.S. Prasad, Sr. Adv.
 Ms. C. K. Sucharita, Adv.

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

Taken on Board.

The petitioner as plaintiff instituted a suit

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pendency of the Suit, the learned Trial Judge passed an

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from peaceful possession of the plaintiff. Eventually,

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Suit No. 45 of 2015. In the said appeal I.A. No. 223 of
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"Both counsel reported ready.
Due to some personal reasons I
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case record in this appeal including this
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file of this court to any other court.
I informed the said fact to both
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Adjourn this petition on 23/3/15."

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pending the suit, there was interim
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Hence, there shall be interim
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under Section 151 of the CPC was filed seeking police
help to put the respondent in possession. The High Court
passed the following order:

"Having regard to the reasons stated in
the accompanying affidavit, there shall be
interim direction as prayed for."

We have heard learned senior counsel Mr. Shyam
Divan for the petitioner and Mr. Dushyant Dave, learned
senior counsel and Mr. S.S. Prasad for the respondent.
We are of the considered opinion that the High Court
should not have passed the said order in exercise of its
revisional jurisdiction when there was no interim order
or refusal or declaration to pass an order of injunction.
Such an order was unwarranted. In our considered view,
as an order of injunction was in force before the Trial
Judge during the pendency of the Suit cause of justice
would be subserved if the learned District Judge,
Vijayawada takes up the application for injunction filed
by the appellant in appeal, that is 1 A.S. No. 45 of 2015
and dispose of the same within six weeks from today.

We direct for maintenance of status quo as on today
as an ad interim arrangement. The revision pending in
the High Court in Civil Revision Petition No. 970 of 2015
shall be deemed to have been disposed of. The appellate

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parameters for grant of injunction in accordance with law
without being influenced by any order passed by any

Court.

We make it clear that we have not expressed any opinion on the merits of the case as the direction is issued totally as on ad interim measure.

The special leave petitions are disposed of. No order as to costs.

(Neeta)
Sr. P.A.

(H.S. Parasher)
Court Master