

SUPREME COURT OF INDIA

G. Kamala Rao

Vs.

K. Jawahar Reddy

(B.N. Kirpal and S. R. Babu JJ.)

17.01.2000

ORDER

1. Special leave granted.

2. On a suit being filed by the appellant, the trial court had passed an ex parte injunction order under Order 39 Rule 1 C.P.C. against the present respondents. The case of the appellant before the trial court, thereafter, was that the injunction which had been granted was violated by the respondents and for this reason an application under Order 39 Rule 2A C.P.C. was filed by the appellant. The trial court vide its order dated 18.8.1999 allowed the application under Order 39 Rule 2A and imposed a fine of Rs. 1,000/-. It was also further directed that the tenants should vacate the premises within three months of 30 the said order.

3. The respondents herein then moved the High Court and filed a Civil Misc. Appeal. By the impugned judgment, the High Court observed that it was not inclined to go into 35 the merits of the rival contentions because the application under Order 39 C.P.C. was still pending, but at the same time it directed that the impugned order of the trial court would be kept in abeyance.

4. We fail to understand the logic of the High Court's order. When an application under Order 39 Rule 2A has been decided on merits and an appeal against the said order has been admitted, we would expect the High Court to decide the appeal on merits rather than avoiding a decision thereon and at the same time directing that the order of the trial court should be held in abeyance. The effect of stating that the order should be held in abeyance would, in fact, tantamount to the High Court allowing the appeal without, at the same time, deciding the same on merits.

5. We, accordingly, allow this appeal, set aside the impugned judgment of the High Court and direct the High Court to decide C.M.A. No. 2391/99 on merits as expeditiously as possible.

6. The parties are at liberty to approach the High Court for appropriate interim orders. Status quo as of today shall be maintained for a period of three months.