

SUPREME COURT OF INDIA

Rajendra Prasad (Since Dead) By Lrs

Vs.

Liird Addl. Munsif, Deoria

(K.T. Thomas and D.P. Mohapatra JJ.)

02.02.2000

ORDER

K.T. THOMAS, J.

1. The Appellant is plaintiff in a suit which was disposed of by the trial court on 19.5.1976. While the suit was pending in that court an order of injunction was passed by the trial court which is alleged to have been disobeyed by the 3rd and 4th Respondents who were defendants in the suit. When a motion was made by the Appellant for taking action against those contumacious defendants the trial court passed the order on 19.8.1976 for their detention in civil prison for a period of two months and also for attachment of their properties. Though the said order passed by the trial court was confirmed by the District Court in appeal it was set aside by the High Court in a revision filed under Article 227 of the Constitution, as per the impugned judgment.

2. The High Court of Allahabad, for setting aside the order passed by the trial court, placed reliance on a decision of that Court in Ram Shankar and Ors. v. Suraj Prasad and Ors. [1962 Allahabad Law Journal p. 201].

3. After hearing arguments of both sides we have noticed that the decision in Ram Shankar and Ors. v. Suraj Prasad and Ors. was rendered by interpreting order 39 Rule 2-A which was brought in the State of U.P. by Notification published in the U.P. Gazette on 22.9.1941. The said Rule is quoted below:

In the case of disobedience to an injunction issued under Sub-rules (1) and (2) of Rule 2-A or of breach of any terms of any such injunction the court, in which the suit is proceeding may order the property of the person guilty of such disobedience or breach, to be attached and may also order such person to be detained in civil prison for a term not exceeding six months, unless in the meantime the court directs his release.

4. Learned Single Judge of the Allahabad High Court laid emphasis to the expression "the Court in which the suit is proceeding" which was substituted for the expression in the corresponding provision in force before such amendment ("the Court granting injunction").

5. We do not find any reason to dissent from the interpretation placed by the learned Single Judge of the Allahabad High Court in Ram Shankar and Ors. v. Suraj Prasad and Ors. on Rule 2-A which existed in the statute book as brought therein by notification published in the U.P. Gazette on

27.9.1941.

6. We may observe in this context that in the C.P.C. Amendment Act 1976 Rule 2-A in Order 39 is worded different from the pre-amendment Rule which remained in the C.P.C. as for the State of U.P. Therefore, the interpretation which the learned Single Judge has placed on the previous Rule in Ram Shankar and Ors. v. Suraj Prasad and Ors. which has been followed in the impugned judgment will not apply to any act of disobedience of injunction committed subsequent to 1.2.1977. In the present case the trial court passed the order on 19.8.1976 and therefore the High Court of Allahabad was right in passing the impugned judgment.

The Appeal is disposed of accordingly.