
(1971) 11 SC CK 0019

In the Supreme Court Of India

Case No : Civil Appeal No's. 840 and 841 of 1971

The Managing Director (MIG) Hindustan Aeronautics Ltd. and
Another, Balanagar

APPELLANT

Vs

Ajit Prasad Tarway

RESPONDENT

Date of Decision : 05-11-1971

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : AIR 1973 SC 76 : (1973) LabIC 407 : (1972) 1 LLJ 170 : (1972) 3
SCC 195 : (1972) 4 UJ 195

Hon'ble Judges : K. S. Hegde, J;H. R. Khanna, J;A. N. Grover, J

Bench : Full Bench

Advocate : V.S. Desai, P.R. Ramachandra Rao and B.R. Agarawala, for the
Appellant; Vishan Narain G. Narayana Rao, for the Respondent

Final Decision : Allowed

Judgement

1. These are appeals by special leave. They arise from the order made by the High Court of Andhra Pradesh in two connected revision petitions.

2. The material facts of the case are as follows. The respondent-plaintiff is serving in the company of defendant-appellant. The defendant company framed charges against him in respect of certain matters. Pending enquiry of those charges the plaintiff was placed under suspension. Immediately he was placed under suspension, the plaintiff rushed to the court and filed a suit challenging the validity of the enquiry ordered against him. He also challenged the validity of his suspension. He pleaded that the proceedings against him were initiated on malicious grounds. His case was that the General Manager of the defendant company was inimically disposed towards him and that was the reason for proceeding against him. In the suit he applied for an interim order staying the operation of his suspension as well as the proceedings in the enquiry directed against him. The learned trial Judge issued an interim ex-parte order as prayed for by him, but at later stage he revoked that order after hearing both the parties.

3. Aggrieved by that decision, the plaintiff went up in appeal. The appellate court modified the order of the trial court. It directed defendant to refrain from proceeding with the enquiry ordered till the decision of the suit but as regards suspension of the plaintiff it sustained the order of the trial court,

4. Aggrieved by this decision both the plaintiff and the defendant went up in revision to the High Court of Andhra Pradesh. The Court accepted the revision petition of the plaintiff but rejected that of the defendant. It stayed the operation of the suspension order as well as the proceeding in the enquiry. It is as against that decision these appeals have been brought.

5. In our opinion the High Court had no jurisdiction to interfere with the order of the first appellate court. It is not the conclusion of the High Court that the first appellate court had no jurisdiction to make the order that it made. The order of the first appellate court may be right or wrong ; may be in accordance with law or may not be in accordance with law ; but one thing is clear that it had jurisdiction to make that order. It is not the case that the first appellate court exercised its jurisdiction either illegally or with material irregularity. That being so, the High Court could not have invoked its jurisdiction u/s 115 of the Civil Procedure Code: See the decisions of this Court in Pandurang Dhoni Chougule Vs. Maruti Hari Jadhav, , D.L.F. Housing & Construction Company Private Ltd., v. Samp Singh and Ors.

6. For the reasons mentioned above, we allow appeal No. 840 of 1971 and dismiss No. 841 of 1971. The resulting position is that the order of the High Court is set aside and that of the first appellate Court restored. In the circumstances of the case we make no order as to costs in this Court.