

V. Ramanathan

Vs

Church of South Indian Trust Association, South Kerala Diocese

Civil Miscellaneous Petition No. 28687 of 1981

(D. A. Desal, R. M. Misra JJ)

11.01.1982

ORDER

1. In petition for special leave to Appeal (Civil) No. 3011 of 1978 this Court made an Order on September 21, 1979 and disposed of the petition. Respondent subsequently moved C.M.P. No. 4909 of 1981 which was disposed of by this Court on March 13, 1981. Thereafter this petition is moved by the respondent. The present Order has to be read with the aforementioned two Orders dated September 21, 1979 and March 13, 1981 and subject to the same.
2. Petition V. Ramanathan who was reinducted in possession is given two months' time i.e. up to and inclusive of March 31, 1982, to vacate and hand over peaceful possession of the premises. But in the larger interest of all the parties and especially the petitioner, we hope that if he can find alternative accommodation, he may vacate earlier and he should not hang on till the last day and try to hand over possession as early as possible after giving intimation to the respondent.
3. The respondent must commence construction of the proposed new building, irrespective of the fact whether from the existing outhouse some other tenant is evicted or not. The respondent shall not be heard to contend at any stage that he could not commence construction on the ground that some other tenant in possession of a portion of existing outhouse has neither vacated nor the respondent has been able to get the same vacated by him.
4. The respondent shall commence the new construction within four weeks from the date, the petitioner hands over actual and vacant possession of the premises in his possession.
5. The sequence in which the construction must be taken up consistent with the plan, that the ground floor (above the basement) should be constructed first and in priority and it must be made ready for occupation by obtaining no objection certificate, if need be as early as possible and within a period of one year from the date of the commencement of the construction. As soon as the ground floor portion is available for occupation to the extent hereinbefore ordered, the petitioner shall be put in possession and the petitioner shall take possession subject to all the conditions earlier prescribed in the order of this Court dated September 21, 1979.
6. The petitioner in respect of paras 2 and 7 and the respondent in respect of other paras of this Order shall file their undertakings in this Court within a period of two weeks from today.
7. It is understood that the petitioner shall do the same business which he is hitherto doing in the premises.

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