

Jagdambari Post Office Bachao Sangarsh Samiti and Another

Vs

Seventh Additional District and Sessions Judge and Others

Civil Miscellaneous Petition Nos. 15979-80 of 1987

(A. P. Sen, B. C. Ray JJ)

20.07.1987

ORDER

1. These are two applications-one filed by the decree-holder Jagdambari Post Office Bachao Sangarsh Samiti and another for initiating proceedings for contempt against certain officials of the Posts & Telegraph Department, and the other by the Union of India for extension of time to vacate the demised premises.

2. After hearing learned counsel for the parties in SLP (C) Nos. 13607 of 1986 and 387 of 1987, the court dismissed the special leave petitions and passed the following order on March 2, 1987 :

Special leave petitions are dismissed with the direction that the order for eviction shall not be enforced for a period of four months from today. Respondent 4 is granted four months time from today to vacate the demised premises subject to the filing of the usual undertaking within three weeks from today. This shall however be without prejudice to the right of the government to acquire property under Section 6 of the Land Acquisition Act, 1984. In the event of notification being issued under Sections 4 and 6 of the Act, respondents 3 will have the right to challenge the same.

3. Normally this Court takes a very serious view when there is a breach of undertaking by the judgment-debtor to vacate the demised premises and the practice is to initiate proceedings for contempt as well as to direct delivery of immediate possession by issue of warrants. However, we do not think it proper to adopt that course in the facts and circumstances of the present case. Here, the order granting time to respondent 4 Union of India to vacate the demised on dismissal of the special leave petitions was in two parts. The first part contained a direction that the order of eviction shall not be enforced for a period of four months and respondent 4 Union of India was granted such time subject to the filing of the usual undertaking. The second part expressly provides that this was to be without prejudice to the right of the government to acquire the property under Section 6 of the Land Acquisition Act, 1894. It is therefore clear that the granting of four months time to Union of India by furnishing of the usual undertaking was subject to the second part which preserved the right of the government to acquire the house under the provisions of the Land Acquisition Act. We informed by the learned Solicitor General that the State Government has taken necessary steps for acquisition of the demised premises by issue of the usual notification under Section 4 of the Act declaring that the demised premises are required for a public purpose, namely, for location of the Jagdambari Post Office. He states that the government has not only issued the usual notification under Section 4 of the Act but also followed it by a notification making the requisite declaration under Section 6 as well as a public notice under Section 9. He also makes a statement that all the arrears in terms of the court's order have been deposited within the time allowed. In the circumstances, we do not think any useful purpose would be served by implementing the first part

of the order taking into account the subsequent events.

4. The application filed by respondent 4 Union of India for extension of time are accordingly granted and it is directed that the order for eviction shall not be enforced for a period of four months from today. We make it clear that there shall be no further extension of time for vacating the demised premises. The applications for contempt must therefore fail and are dismissed.

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