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C.A.No. 666 OF 2004

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.666 OF 2004

UNION OF INDIA AND ORS.

.....
APPELLANT(S)

:VERSUS:

NELSON G. MOSES

.....
RESPONDENT(S)

O R D E R

Heard the learned counsel for the parties.

It appears that the father of the respondent was an employee of the Railways who retired from service on 31.12.1991. He has been in occupation of a Railway accommodation allotted to him in capacity as an employee of the Railways. On his superannuation he should have vacated the premises but he failed to do so. In the meantime, the respondent also got employment in the Western Railways and was appointed as a Ticket Collector on 17.3.1992. In view of the fact that the respondent also got employment in the Western Railways, Mumbai Division, and has since been residing with his father, he continued to be in the possession of the quarter, though according to rules for allotment of the official accommodation, his entitlement for allotment of the official accommodation was still not there. As a matter of fact, even though he might be residing with his father while he was in service, the respondent could not continue in possession of the premises nor could occupy the premises unless the same was allotted to him according to the rules.

Learned counsel for the respondent does not dispute that under the rules he was not yet entitled for any such allotment of official accommodation. As a matter of fact the High Court has also not held that the accommodation was in possession of the respondent in accordance with law or the rules applicable on the subject. However, the High Court was of the view that since he has been occupying the accommodation for the last about 9 years, it would cause hardship if the respondent is asked to vacate the premises. In that view of the matter, it was thought that at the appellant may regularise the occupation of the respondent with effect from 1.8.1992. This, however, not being in consonance with the rules, the High Court directed that it may not be treated as a precedent in other cases.

We hardly find any justification for any such concession being made merely on the basis that the respondent has been in possession, partly on the basis of the stay orders granted by the Courts. In this view of the matter, we find that the impugned order passed by the High Court is not sustainable.

Learned counsel for the respondent, however, prays that some time may be allowed to him to vacate the premises. Considering all the facts and circumstances, while allowing the appeal and setting aside the order passed by the High Court, the respondent is granted six months' time, from today, to vacate the premises subject to the condition of his furnishing usual undertaking within three weeks from today. On vacation of the premises, the appellant shall release the amount, whatever is due to the father of the respondent and shall also release the passes as may be admissible to the respondent, within one month thereafter. There shall be no order as to costs.

.....J

(BRIJESH KUMAR)

.....J

(ARUN KUMAR)

NEW DELHI;

FEBRUARY 25, 2004.

ITEM NO.105COURT NO.10SECTION-IX
S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.666 OF 2004

UNION OF INDIA AND ORS.

.....

APPELLANT(S)

:VERSUS:

NELSON G. MOSES

.....

RESPONDENT(S)

(With prayer for interim relief)

Date : 25/02/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR

HON'BLE MR. JUSTICE ARUN KUMAR

For Appellant (s)Mr. P.P. Malhotra, Sr.Adv.

Ms. Anu Mohla,Adv.

Mr. S.N. Tardal,Adv.

Mrs. Anil Katiyar,Adv.

For Respondent (s)Mr. V. Ramasubramanian,Adv.

UPON hearing counsel the Court made the following

O R D E R

Mr. P.P. Malhotra, learned senior counsel for the appellants made arguments for about 15 minutes.

The appeal is allowed and the order passed by the High Court is set aside in terms of the signed order. There shall be no order as to costs.

(A.S. BISHT)(ASHA JOSHI)

COURT MASTER

COURT MASTER

(Signed order is placed on the file)