
(1988) 3 JT 18 : (1989) 2 SCC 655 Supp

Supreme Court of India

Case No: Civil Appeal No. 361 of 1986

Thacker Hariram
Motiram

APPELLANT

Vs

Balkrishan Chatrabhu
Thacker and Others

RESPONDENT

Date of Decision: April 25, 1988

Acts Referred:

Constitution of India, 1950 – Article 136

Citation: (1988) 3 JT 18 : (1989) 2 SCC 655 Supp

Hon'ble Judges: Sabyasachi Mukherjee, J; S. Ranganathan, J

Bench: Division Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Sabyasachi Mukharji, J.

Interim order staying dispossession was granted by this Court on 24.1.1986. It appears that before the learned

Judge of the High Court the learned advocate who appeared for the petitioner, requested that in view of the fact that the decree for actual

possession was being passed in Second Appeal, the tenant might be given some reasonable time for ""handing over vacant possession of the suit

premises to the original plaintiffs"". He further submitted that a period of about three years might be granted for this purpose. The learned advocate

for the original plaintiffs vehemently opposed this request for time. The learned Judge after considering the request for handing over the possession

directed that one year's time be given and further undertaking should be given within a period of three weeks ""stating that vacant possession would

be handed over within the aforesaid time"". It appears that the undertaking was affirmed on 9.11.1984 wherein it was stated that the appellant

would vacate and give vacant possession of the suit premises by 31.12.1985 i.e., to say after one year if ""by that time no stay order from the

Supreme Court is received as I intend to file an appeal in the Supreme Court"". This undertaking is filed by the appellant in our opinion is in clear

variation with the oral undertaking given to the learned Judge which induced him to give one year's time. We do not wish to encourage this kind of

practice for obtaining time from the Court on one plea of filing the undertaking and taking the different stand, in applications under Article 136 of

the Constitution. In that view of the matter the interim order is vacated and we direct that the appellant should hand over possession to the

respondents forthwith.