

4.5.93.

60

CCP-162/93 in
OA-1271/92

Smt. Shanta Joshi & Anr.

vs.

Shri K. A. Nambiar, Secretary,
Min. of Defence & Anr.

Present : Shri B. B. Raval, counsel for the
petitioners.

The grievance of the petitioners in this case is that the interim order which had the effect of protecting the petitioners' possession and preventing dispossession has been disobeyed. Though the order of stay was communicated to the respondents, on 29.3.1993 steps were taken to dispossess the petitioners. There cannot be any doubt that the respondents did violate the interim order granted by the Tribunal. This would have prima facie been sufficient to persuade us to take action under the Contempt of Courts Act. Certain subsequent events which we consider it necessary to take into account are that the petitioner moved the Tribunal on being dispossessed bringing it to the notice of the Tribunal about the high handed action of the respondents and the suffering to which the petitioner has been subjected to. The Tribunal obviously reacted to the situation very rightly and made an order on 31.3.1993 directing the respondents to restore the status quo ante as on 29.3.1993 and put the petitioner and her children back in possession of the accommodation. They were to be put back in possession by 12.00 noon the next day, i.e., 1.4.1993. It is not disputed that in pursuance of the said direction the petitioner was put back in possession. The Tribunal has noticed while making that order on 31.3.1993 that they were constrained to make those directions as they were satisfied that the interim direction was violated. The main matter was ultimately heard and disposed of finally on merits on 22.4.1993. In its order the Tribunal stated that there is no justification to permit the petitioners to retain the accommodation which was in their possession. It is further stated that but for the interim order passed by the Tribunal, the petitioners would have been evicted long back. The Tribunal

in the circumstances directed the petitioners to hand-over the peaceful possession of Government accommodation to the respondents within a period of one month from the date of pronouncement of the said order. It is further stated that if they do not vacate the premises within the time specified, they shall be liable for committing contempt of court. These subsequent events we consider deserve to be taken into consideration before taking action under the Contempt of Courts Act. When the violation of the interim order was brought to the notice of the Bench it was open to the Bench to say that the respondents should be proceeded against under the Contempt of Courts Act. The Bench exercised its discretion in favour of directing the respondents to put the petitioners back in possession within the specified time. That order has since been obeyed. On merits, the Tribunal did not find substance in the case of the petitioners and the case was, therefore, disposed of on 22.4.1993. The complaint in this case is about violation of the interim order. The order of the Tribunal dated 31.3.1993 sufficiently expresses displeasure of the Tribunal about the conduct of the respondents. Not only displeasure was expressed but the respondents were also forced to put back the petitioners in possession of the accommodation. There cannot, therefore, be any doubt that the Tribunal has acted firmly to discipline the respondents who had tried to disobey the orders of the Tribunal. Having regard to all these circumstances, we do not consider it necessary to pursue these proceedings further. We decline to take further action and dispose of this C.C.P.

B. N. Dhoundiyal
(B. N. Dhoundiyal)
Member (A)

V. S. Malimath
(V. S. Malimath)
Chairman