

(14)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, BOMBAY.

Contempt Petition No.100/93

V/s.

Original Application No.402/91.

Union of India & Ors.

... (Petitioners
(Org. Resp.)

V/s.

K.S.Khedekar.

... Contemner
(Original
Applicant).

Coram: Hon'ble Shri Justice M.S.Deshpande,
Vice-Chairman,
Hon'ble Shri P.P.Srivastava, Member(A).

Appearances:-

Petitioners by Shri S.S.Karkera.
Contemner by Shri R.R.Shetty
as amicus curiae.

Tribunal's Order :-

{Per Shri M.S.Deshpande, Vice-Chairman} Dt.23.1.1995.

The present Contempt Petition is directed against the applicant in view of what is stated in the order passed by the Tribunal on 29.8.1991. The relevant observations in that Judgment were:

"Shri P.M.Pradhan, learned counsel for the respondents also made a statement in this behalf. The learned counsel for the applicants accepted this position and said that in view of this present position it will not be possible for him to convince the court the pleas which he has raised but he prays that some reasonable time may be granted to the applicants to vacate the premises and prays that three months time may be granted to the applicants to vacate the premises. The prayer appears to be reasonable and accordingly time upto 31st December, 1991 is granted to the applicants to vacate the premises. Till then the applicants shall not be evicted by the respondents. The applicants shall hand over the vacant position of the premises in their possession by 31.12.1991 or any date prior to the convenience of the respondents after giving them due intimation of the date on which possession is to be taken. This shall not induct any other person in the premises in any manner and shall also clear all the dues before they vacate the premises. With these observations the applications stand disposed of finally with no order as to costs."

Not satisfied with the concession which the applicant had obtained, he filed Civil Suit No.1502/91 in the Court of Civil Judge, Senior Division, Pune seeking an injunction, but by order dt. 5.3.1993 the injunction was refused. The appeal preferred by the applicant to the District Court was dismissed on 22.7.1994 but status quo was granted by the District Court from 9.4.1993 to 22.7.1994. The applicant approached the High Court, which dismissed Writ Petition on 2.9.1994. The applicant gave possession of the premises to the Respondents on 12.9.1994.

2. The learned counsel for the Respondents (Department) contended that by not delivering the possession by 31.12.1991 the applicant has committed contempt of this Tribunal's Order. It is true that there was a direction to the applicant to deliver the possession, but breach of that direction would not amount to contempt as there was no undertaking by the applicant to deliver possession but only an extension of time had been granted to the applicant to deliver possession. He pursued his remedies by filing suit for injunction which ultimately ended by the dismissal of the Writ Petition by the High Court on 2.9.1994. In these circumstances, we do not think that the conduct of the applicant amounts to contempt and it would be open for the department to pursue its usual remedies for recovery of the amount and filing a Contempt Petition would not be a remedy.

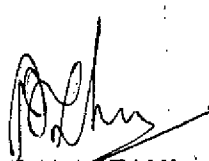
3. The learned counsel for the applicant stated that the applicant has paid normal rent up to ...3.

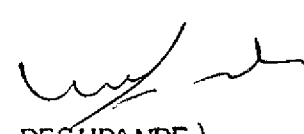


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the end of August, 1992. There was no direction by the Tribunal to pay damage rent. The applicant's counsel (i.e. the Respondent in C.P.) stated that the applicant is willing to pay normal rent from September, 1992 to September, 1994, after he receives arrears immediately after he receives the amount withheld from the dearness relief which would be payable to the applicant on his pension. The applicant's counsel has filed before us ^{an} ~~written~~ writing permitting the Respondents to deduct Rs.1740/- from the arrears of dearness relief before paying the amounts to him. We therefore authorise the Respondent department to deduct this amount of Rs.1740/- from the arrears due to the applicant and leave it open to the department to recover the rent or the damage rent to which they may ultimately be found entitled by the appropriate forum. With these directions the C.P. is disposed of.

4. We appreciate the assistance rendered by Shri R.R.Shetty as amicus curiae to the applicant.


(P.P.SRIVASTAVA)
MEMBER (A)


(M.S.DESHPANDE)
VICE-CHAIRMAN

B.