

CASE NO.:
Appeal (civil) 3593-05 of 2003

PETITIONER:
Union of India

RESPONDENT:
Howrah Ganatantrik Nagarik Samity & Ors.

DATE OF JUDGMENT: 17/04/2003

BENCH:
N.Santosh Hegde & B.P.Singh.

JUDGMENT:

J U D G M E N T

(Arising out of SLP Nos.17203-17205 of 1999)
SANTOSH HEGDE, J.

(With SLP No.9827/2002)

Leave granted. SLPNo.9827/2002 is de-linked from
C.A.Nos...of 2003 @ SLPNos. 17203-205/99.

Heard learned counsel.

Union of India through Eastern Railway, Calcutta is challenging an order made by Calcutta High Court dated 18.6.1999 in Writ Petition Nos. 12902/97 and 1322/98 pending in the file of the High Court of Judicature at Calcutta. A Division Bench of the said High Court while considering the above noted writ petitions filed before it for seeking eviction of illegal squatters in the railway property, as also areas besides Rabindra Sarobar, directed the State of West Bengal and Railway administration as an interim measure, to provide sanitary facilities to the said squatters. Accordingly following directions were issued:-

(1) Cost for the project shall be borne in equal proportion by the State of West Bengal and the Union of India, through railway administration.

(2) The State Government authorities, authorities of the railway administration as also the Calcutta Municipal Corporation shall see to it that no further infiltration takes place.

(3) After the aforementioned project is completed by the State Government Calcutta Municipal Corporation would see the proper sanitation is maintained.

In this appeal, the appellants contend that in view of the fact that there are lawful orders to evict the said squatters from the railway property, the High Court ought to have directed the eviction of the squatters rather than providing them with further benefits which would only make them disobey the order of eviction. The appellants urge that instead of the impugned directions, the High Court ought to have directed the State Government to provide the Railways necessary police help to evict the illegal squatters whose occupation on the railway land is causing serious problems to the railways in maintaining its services as also causing danger to the passengers and goods carried by the railways, apart from the problem of pollution as contended in the writ petition.

We have heard learned counsel for the parties and we notice that the impugned order itself states that the same shall not come in the way of the implementation of the eviction order already passed. If that be so, we find no reason why the railways or for that matter State of West Bengal should be directed to provide sanitary facilities even

as an interim measure. We see from the records that subsequent to the impugned order which is of 18.6.1999, on 14.12.2001 the High Court has held that the competent authorities having passed eviction order against these squatters the State Government with the railway administration and the Calcutta Municipal Corporation should see that all these orders are complied within one month of the passing of the said order. It seems no steps are yet taken to comply with the order of eviction. We also notice on 18.1.2002 an application was filed on behalf of Ballygunj-Tollygung Rail Colony Sangram Committee seeking an extension of time by six months to persons residing in the said railway property (squatters) to vacate the same. We also notice even though the said application contained a prayer for rehabilitation of the said squatters, the same was given up and the prayer was confined only to the extension of time to vacate the railway property. The High Court taking note of certain difficulties that was there at that point of time for these squatters to vacate immediately, extended the time to vacate the area in question by 30th of April, 2002, subject to the condition that the concerned persons filed an undertaking to the Court committing themselves to vacate the area in question by 30th April, 2002. Such undertaking was to be filed within 10 days of the date of the said order of the High Court. The court also directed in default of filing of undertaking, the order of extension will stand cancelled. The said order of the High Court is made mandatory and peremptory. But we are told that till this day there has been no compliance of that order. It is possible because of the pendency of these petitions further steps might not have been taken by the High Court.

Be that as it may, in view of the subsequent orders of the High Court dated 14.12.2001 and 18.1.2002 wherein there are clear cut directions for evicting the illegal squatters in the railway property in question, we think the impugned order has become infructuous. We, however, make it clear that the High Court should now take such steps as is necessary to see that the orders of eviction passed by the competent authorities and also the directions given by it as per orders dated 14.12.2001 and 18.1.2003 are given effect to at the earliest.

With the said observations, these appeals stand disposed of.