

PETITIONER:
LUMBINI NAGAR COOP. HOUSINGSOCIETY LTD. AND OTHERS

Vs.

RESPONDENT:
UNION OF INDIA AND OTHERS

DATE OF JUDGMENT 17/08/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
JT 1995 (6) 623 1995 SCALE (5)159

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted.

Pursuant to the directions issued by this Court on July 28, 1995 and the order dated August 11, 1995, affidavit has been filed in which it has categorically been stated that out of 169 original allottees, 57 are employees of respondent No. 2 and are described as departmental employees. Out of 112 other allottees, 9 allottees were given notice under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Remaining 103 persons are the original allottees who are still in occupation of their respective tenaments with their families. They neither sold nor transferred their tenaments and they are continuing to reside in the respective tenaments even till date.

Mr. Nambiar, learned senior counsel for the respondents, has stated across the bar that no action is being taken against any person other than the nine allottees who are said to have parted with their right to remain in possession of their respective tenaments. The learned counsel for the appellants contended that these 9 allottees, though have entered into agreements to sell their properties, the same is subject matter of the pending suit in the High Court. Therefore, their possession cannot be disturbed.

Since the High Court, both the Learned Judge as well as the Division Bench, was not inclined to grant injunction as sought for, we are not persuaded to take a different view in that behalf. Injunction being a discretionary order, the High Court has refused to exercise the discretion in favour of the nine persons. Under these circumstances, we do not deem it expedient under Article 136 to upset the order of the High Court.

The appeal is accordingly disposed of. No costs.

JUDIS