

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 1435 OF 1984**

UNION OF INDIA & ANR. .... APPELLANTS

VERSUS

VIJAY KUMAR & ANR. .... RESPONDENTS

**ORDER**

The respondents were the plaintiff in civil Suit No. 7A of 1972 in the Court of learned District Judge, Sagar. The plaintiff filed the suit for declaration of title in respect of bungalow No. 24 G.L.R. Survey No. 464 measuring 5.31 acres within Sagar cantonment together with the land, building, out house, well trees and fencing etc. and perpetual injunction restraining the respondents - Union of India and others from taking possession of the said bungalow. It may be stated that the plaintiff has not succeeded in establishing title to the said property and it has been adjudicated that the land belonged to the Sagar Cantonment and the plaintiff was permitted to erect the building etc. on such land. The plaintiff, however, succeeded in getting an order of perpetual injunction restraining the defendants, namely, the appellants before this court from taking possession of the said bungalow etc. There is no dispute in this case that the notice of one month as contemplated for resumption of the land on which structure etc. had been made by the defendants had been given to the plaintiff. The dispute is whether or not for such resumption only one month's notice is required to be given and it is not necessary to make payment of the compensation for the structure etc. before resumption. Such question has been decided by this court in **Union of India and Ors. Vs. Harish Chand Anand** (1995 Supp. 4 SCC 113). It has been held in the said decision that after a licence was granted by the Governor General-in-Council to respondent to erect structure on government land but retaining power of resumption at any time on giving one month's notice and payment of the value of the structure, the only condition precedent for the resumption of the land is service of the one month's notice and the amount of compensation is not required to be paid before such resumption. The quantum of compensation may

be determined subsequently after giving opportunity to the grantee and payment to be made on determination of the proper compensation. As in the instant case, the plaintiff failed to establish title to the land on which the bungalow was built and as it has been found that such bungalow was built on the Cantonment land where the defendants appellants had the right to resume possession and as it has also been found that one moth's notice had been given prior to such resumption, there was no reason to grant perpetual injunctions against the defendants appellants. Therefore, this appeal must succeed. We allow the same by setting aside the impugned judgement. It is made clear that the question of compensation for the structure etc. is kept open to be decided by the appropriate authority after giving reasonable opportunity to the plaintiff. There will be order as to cost in the appeal.

Sd/-

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(G.N. Ray)

New Delhi  
March 19, 1998

Sd/-

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(G.B. Pattanaik)