

# ILLEGAL PHOTOCOPYING OF DOCUMENTS IS THEFT: SUPREME COURT

Relevant for: Indian Economy | Topic: Issues relating to Intellectual Property Rights (IPRs)

Dishonest and temporary “removal” of original documents to take photocopies and to further use information amounts to theft, the Supreme Court has held.

“Temporary removal of original documents for the purpose of replicating the information contained in them in some other medium would thus fulfil the requirement of “moving” of property which is the *actus reus* of the offence of theft as defined under Section 378 (theft) of the Indian Penal Code,” a Bench of Justices R. Banumathi and R. Subhash Reddy observed in a May 9 judgment.

The judgment followed the principle laid down by the apex court in its earlier precedents that “to commit theft, one need not take movable property permanently out of the possession of another with the intention not to return it to him. It would satisfy the definition if he took any movable property out of the possession of another person though he intended to return it later on.”

Here, the information contained in the documents taken out of the possession of the rightful owner is considered “movable property.”

“The loss need not be caused by a permanent deprivation of property but may be caused even by temporary dispossession, though the person taking it intended to restore it sooner or later. A temporary period of deprivation or dispossession of the property of another causes loss to the other,” the apex court reasoned.

The observations are part of a 68-page judgment on the appeal filed by Birla Corporation alleging the theft of 54 documents by Adventz Investments and Holdings.

The Calcutta High Court, however, held that since the the first 28 documents were still in Birla’s custody, the taking away of the information contained in these documents and their temporary removal would not qualify as theft, dishonest misappropriation of property or dishonest receiving of the stolen property.

In its judgment, the apex court set aside the High Court decision.

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