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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.327/1999

New Delhi, this 17th day of October, 2000

Hon'ble Shri M.P. Singh, Member(A)

Const. Shaji Thomas No.1037/E
Qr.No.80, PTS, Malviya Nagar
New Delhi

.. Applicant

(By Shri B.Krishan, Advocate)

versus

1. Commissioner of Police, Delhi
Police Hqrs., New Delhi
2. Dy. Commissioner of Police
Hqrs.(III), Delhi
IP Estate, New Delhi

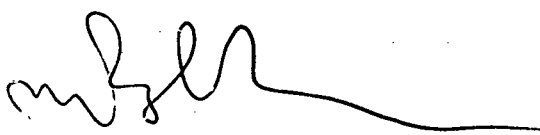
.. Respondents

(By Shri Devesh Singh, Advocate)

ORDER

1. The applicant is aggrieved by the order dated 14.12.98 cancelling allotment of Qr.No.80, Type I, PTS, Malviya Nagar, New Delhi.

2. Brief facts of the case, as stated by the applicant, are that the applicant was allotted the aforesaid quarter in 1990 and since he and his family members have been residing in that house. A show cause notice was issued to him on 14.8.98 as to why the allotment of the aforesaid quarter should not be cancelled in his favour, besides debarring him for a period of one year for further allotment on the ground that he is running business in sale/purchase of cars from his allotted Government quarter. Thereafter the allotment of quarter No.80 was cancelled vide order dated 14.12.98. Aggrieved by this, the applicant has filed this OA seeking directions to set aside the impugned order dated 14.12.98.



3. Respondents have stated that a secret/confidential enquiry was conducted by ACP, Special Branch which revealed that the applicant is running business of sale and purchase of cars from his residential government quarter. Telephone No.6852089 was installed in the name of one Abraham, at his residence. He was also running a motor repair workshop at village Ghitorni, Delhi in the name and style of "Kochi". As per rule 28 of SO 3/91, no government servant can share the residence allotted to him. Rule 29 of SO 3/98 clearly provides that a government servant cannot use the residence or any part of it for any purpose other than for which it is meant. The applicant was issued show cause notice, in response to which the applicant submitted his reply. The same was considered but found unsatisfactory and, therefore, the allotment of the said quarter was cancelled.

4. Heard the learned counsel for the rival contesting parties and perused the records.

5. It is seen from the impugned order dated 14.12.98 (Annexure I) that the allotment has been cancelled and the applicant has been asked to vacate the premises within 60 days and hand over vacant possession to the RI/7th Bn. DAP, Delhi, failing which eviction proceedings will be initiated against him under Delhi Police Act, 1978.

6. Learned counsel for the applicant has stated that interim order of 'status quo' was granted to the applicant by Tribunal's order dated 11.2.99 and the applicant has not vacated the premises and continues to reside till now.

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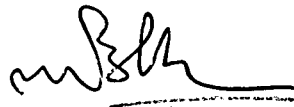
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7. In a recent judgement of the Hon'ble Supreme Court in the case of UOI Vs. Rasila Ram & Ors. in Civil Appeal No.1301-04/99 decided on 6.9.2000, the apex court has categorically held as under:

"Once a government servant is held to be in occupation of a public premises as an unauthorised occupant within the meaning of Eviction Act, and appropriate orders are passed thereunder, the remedy to such occupants lies, as provided under the said Act. By no stretch of imagination the expression any other matter in section 13 (q)(v) of the Administrative Tribunal Act would confer jurisdiction on the Tribunal to go into the legality of the order passed by the competent authority under the provisions of the PPE Act, 1971. In this view of the matter, the impugned assumption of jurisdiction by the Tribunal over an order passed by the competent authority under the Eviction Act must be held to be invalid and without jurisdiction. This order of the Tribunal accordingly stands set aside...."

8. By the impugned order dated 14.12.98 the respondents have made it clear that the applicant should vacate the premises within 60 days failing which eviction proceedings will be initiated against him under Delhi Police Act, 1978.

9. In view of the law laid down by the apex court as stated supra in the case of Rasila Ram, I find that the OA is not maintainable on the ground that the Tribunal has no jurisdiction over this matter. The OA is accordingly dismissed. The interim order dated 11.2.99 also stands vacated. No costs.


(M.P. Singh)
Member(A)

/gtv/