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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-330/99
MA-616/99

New Delhi this the 18th day of March, 1999.

Hon ble Shri S.P. Biswas, Member(A)

Sh. M. S. Saxena,
F-2897, Netaji Nagar,
New Delhi-110023.

.... Applicant

(through Sh. M.P. Saxena, advocate)

versus

1. The Director of Estates,
through its Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.

2. The Estate Officer(Litigation),
Directorate of Estates,
Room No. 401, B Wing,
Nirman Bhawan, New Delhi. Respondents

(through Sh. Gejender Giri, advocate)

order(oral)

The applicant before us is seeking relief in terms of quashing the show cause notice dated 20.09.96 issued in terms of Sub-Section (3) of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The said show cause notice is relevant for the purpose of eviction of the premises by an unauthorised occupant. The learned counsel for the applicant would submit that an appropriate communication by the Estate Officer has since been issued withdrawing the cancellation. Under these circumstances, the case for initiation of action under eviction proceedings does not survive. None of the parties dispute this position.

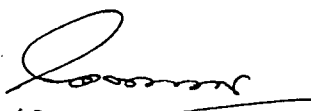
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2. The ld. counsel for the respondents submits that the cancellation of the order has been subject to the payment of arrears amounting to Rs.29951/- and since it is an order passed hedged with the condition for paying the aforesaid amount in terms of damages, the validity of the still survives. The law is well settled in respect of legal actions to be taken for unauthorised occupation and recovery of dues arising out of the former. Rules provide that eviction proceedings are not applicable to situations touching upon the problem of recovery. Separate recovery proceedings are required to be initiated when the intention is to recovery any amount done.

3. Under these circumstances, the respondents will be at liberty to initiate appropriate recovery proceedings under the Act. The present attempt of the respondents to hang this case only because of the payment has not been made does not hold good. In the circumstances, the present O.A. has to be dismissed and I do so accordingly while permitting the respondents to initiate appropriate recovery proceedings under the Act.

4. The O.A. is disposed of as above. No costs.


(S. P. Biswas)
Member (A)