

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Review Application No. 252 of 1998

(in O.A. No. 1016/98)

New Delhi, this the 4th day of January, 1999

1. Shri Jai Prakash s/o Shri Jethwa Singh, aged 59 years, Govt. quarter No. 120-F, Sector-IV, M.B. Road, New Delhi.

2. Shri Praveen Kumar, S/o Shri Jai Prakash, working as Sub-Inspector of Police (Chowki Incharge) Govindpuri Thana, New Delhi.

(26) **-APPLICANTS**

Versus

1. Union of India, represented through the Secretary, Land & Building Department, (Estate Branch), Govt. of National Capital Territory of Delhi, Vikas Bhawan, New Delhi-110002.

2. The Director of Estates, Directorate of Estate, 4th Floor, C Wing, Nirman Bhawan, New Delhi.

-RESPONDENTS

O R D E R (in circulation)

By Mr. N. Sahu, Member(Admnv)

This review application filed on 30.11.1998 impugns the order passed in OA 1016/98 on 11.11.1998 on the ground that "the applicant's son in whose name the allotment is sought does not own his own house and there is evidence on record that the applicant's son is residing with applicant no.1 and for the past 4 years the applicant No.2 has not drawn rental allowance which entitles him for allotment of Type-III accommodation". The eviction order is stated to be a non-speaking order. It is stated that by way of a partition deed, family house in the name of applicant no.1 was parted in favour of his younger son before retirement of the applicant dated July 31, 1997 in terms of family partition deed which was effected on 17.1.1997.

2. It is settled law that evidence which could have been furnished in the original pleadings cannot be treated as admissible in review. The applicant could have but did not produce before the Court when the OA was heard and orders passed. The counter filed by the respondents in the O.A. clearly states that applicant no.1 owns a house in Rohini constructed out of house building advance taken from the Government. Secondly, applicant no.2 being non-gazetted belongs to an ineligible category. A mere statement that applicant no.2 does not own house would not serve any purpose and the partition deed now furnished and which did not accompany the rejoinder to the counter filed in the O.A., cannot be taken cognizance of. The purpose of putting in a condition about ownership is not so much establishment of de jure ownership. The idea is to enable a retiree to live with his son if he owns a house and does not need a Government accommodation to be allotted in favour of his son. The fact that applicant no.1 owned a house till his retirement which he professes now to make it the subject matter of a family partition is undisputed. How far impressing the self acquired property of applicant no.1, which he alone is competent to bequeath a subject matter of a family partition, is open to judicial scrutiny. The ^{ut} improvisation of the arrangement as a devise to enable the claimant to come within the rules cannot be overlooked. That applicant no.2 belongs to an ineligible category has not been disputed. Further applicant no.2 has no legal enforceable vested right to secure an adhoc

