

Central Administrative Tribunal
Principal Bench

O.A.No.1463/97

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 4th day of December, 1997

Hoshiyara
s/o Sh. Jaggan
r/o D-281, Moti Bagh-I
New Delhi - 110 021.

... Applicant

(By Shri A.K.Bhardwaj, Advocate)

Vs.

1. Union of India through
The Secretary
M/o Urban Development
Govt. of India
Nirman Bhawan
New Delhi.
2. The Director
Govt. of India
Directorate of Estate
Nirman Bhawan
New Delhi.
3. The Deputy Director of Estate(Sub)
Govt. of India
Directorate of Estates
(Enquiry Section)
Nirman Bhawan
New Delhi.
4. The Asstt. Director of Estates(E)
Govt. of India
Directorate of Estates
Nirman Bhawan
Enquiry Section
New Delhi. Respondents

(By Shri S. Mohd. Arif, Advocate)

O R D E R(Oral)

The applicant is aggrieved by the orders, Annexure A1 and A2 whereby the allotment of the Govt. quarter No.D-281, Moti Bagh-I has been cancelled on the allegation of subletting and the appeal filed by him had also been rejected.

2. I have heard the counsel on either side. According to the respondents the Directorate of Estates had undertaken a door to door inspection of Govt. houses with a view to check the subletting in pursuance of the directions of the Hon'ble Supreme

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Court in CWP No.585/94, Shiv Sagar Tiwari Vs. Union of India & Others. The house in question was inspected on 29.1.1996. At that time neither the allottee nor the family members of the allottee were found in the said quarter and respondents say that one Shri Ved Pal along with his wife Smt. Kanta were found to be in occupation of the said quarter unauthorisedly. As full subletting was suspected a show-cause notice was issued but the allottee on appearing, in the first instance, requested for some time to bring the proof of his stay in the said quarter and therefore the case was adjourned to 15.4.1996. However, the allottee did not appear on the said date nor did he seek any further time. The case was heard an ex-parte by the Deputy Director, Estate Officer who ordered cancellation of quarter with all penalties. The allottee filed an appeal to the Directorate of Estate and the same was rejected by the order A2.

3. The case of the applicant is that Smt. Kanta and Shri Ved Pal who were found by the inspecting team to be living in the house are the applicant's real daughter and son-in-law who were sharing accommodation with him. The inspection was made at about 5 P.M. on 29.1.1996 when the original allottee had not come back from the office. The learned counsel for the applicant has brought to my notice FRSR 317 B Part-I, Page 375, Annexure II, Swamy's Edition 12th of 1994. According to this close relations such as daughters and sons-in-law would be considered as close relations and if they are sharing the accommodation with the original allottee, it will not be considered as subletting. In view of this, if Smt. Kanta and her husband are found to be close relations as claimed by the applicant, then obviously the case will not be one of subletting. The learned counsel for the respondents however states that it is not only the question of close relations staying with the applicant, the applicant had to establish that he was also staying on the premises.

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4. I find that the Estate Officer has not gone into the question of relationship of Smt. Kanta and her husband with the applicant. This apparently happened because the initial order was passed ex-parte. In the circumstances, I allow the OA. The impugned order A1 and A2 are quashed and the matter is remanded to the Estate Officer to give a further opportunity to establish that persons found at the time of inspection are the real daughter and son-in-law of the applicant. Thereafter, the case may be disposed of as per law. No costs.

Rao
(R.K.AHOGLA)
MEMBER(A)

/rao/