

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.2659/97

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New Delhi this the 28 Day of October, 1998

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

Shri Des Raj
Son of Shri Budh Ram
Working in the office of
The Income Tax Officer,
Range 9 Mayur Bhawan,
New Delhi and Resident of
Qr. No. A-348, Minto Road,
New Delhi.

Applicant

(By Advocate: Shri George Parackan)

-Versus-

1. Director of Estate,
Office of the Directorate of Estate,
Nirman Bhawan, New Delhi.

2. Estate Officer,
Shri A.Bans,
Directorate of Estate,
Nirman Bhawan,
New Delhi.

Respondents

(By Advocate: Shri Rajeev Bansal)

ORDER

The applicant challenges the decision of the respondents dated 3.10.1997, Annexure A-1, rejecting his representation against the order of cancellation of the allotment of the Government quarter in his occupation and the order dated 29.10.1997, Annexure B, under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 requiring him to vacate the said accommodation.

2. The case of the applicant is that the respondents had conducted an inspection of the premises on 21.8.1996, a working day when the applicant was not at home. The Inspection Team found Shri Hari Kishan, Smt. Urmila, Ram Avtar and Surinder Kumar occupying the

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quarter. They also checked the CGHS Card, as well as the LPG Consumer Number. The Inspecting Team recorded that they suspected full subletting as none of the family members were available whereas two families were found living in the quarter. The applicant submits that Shri Ram Avtar and Hari Kishan happened to be his real brothers while Smt. Urmila is ^{his} the sister. He admits that Shri Hari Kishan is staying in the house from the very beginning when it was regularised after the retirement of his father who was the original allottee. The sharing of the accommodation with close relations like brothers and sister is permissible under rules. He further submits that when a notice was issued to him by the Estate Office, he could not attend the inquiry as he was running high temperature but the Estate Officer, however, without giving any opportunity issued cancellation orders which were never communicated to him. It is only after he came to know of the eviction proceedings that he gave the representation which was rejected by the letter, Annexure A-1, on the ground that the representation had been made much after the stipulated time of 60 days.

3. I have heard the counsel on both sides. Shri Parackan, learned counsel for the applicant has vehemently argued that the presence of the brothers and sister of the applicant at the time of inspection was a sufficient proof that there was no subletting as alleged. He pointed out that when the father of the applicant retired, Hari Kishan was also staying on the premises and had continued to do so after the allotment was

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regularised in favour of the applicant. The sister of the applicant had come to visit her brother and the other two persons found were family guests.

4. I have carefully considered the case of the applicant. Firstly, the applicant challenges the order rejecting the cancellation of the allotment. The grounds on which this has been done is that the same was received much after the stipulated period of 60 days. The applicant's case on the other hand is that as he never knew of the order of cancellation, he could not make his representation during the stipulated period. This does not appear to be ^a reasonable explanation. The order of cancellation was dated 14.10.1996. The applicant had been called by the Estate Officer on 4.10.1996. The respondents say that the order of cancellation was communicated to the applicant by Registered post. On the other hand, the applicant states that he never received this. It is surprising that the applicant had never made inquiries from the Estate Office after he did not turn up as summoned on 4.10.1996. There was no ground for him to presume that as he did not appear in the inquiry, the inquiry officer had concluded that there was no subletting and closed the enquiry. He cannot now therefore, take the plea that he never knew that the allotment had been cancelled. When it is held that the order of cancellation is valid, the order of eviction cannot be interfered with. Once the allotment has been cancelled, the applicant is in the position of unauthorised occupant. The respondents are, therefore,

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entitled to take action under Section 5 of the Public
Premises (Eviction of Unauthorised Occupants) Act, 1971.

The O.A. is dismissed. No order as to costs.

R. K. Ahooja
(R. K. Ahooja)
Member (A)

Mittal

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