

Central Administrative Tribunal
Principal Bench

O.A.No.2742/97

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

New Delhi, this the 19/2 day of February, 1999

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Prem Lal
s/o late Sh. Kalka Prasad
r/o A-196, J.J.Colony
Shakurpur, Delhi. Applicant

(By Shri Vinod Kumar, Advocate)

Vs.

1. Union of India
M/o Urban Affairs & Employment
Nirman Bhawan
New Delhi - 1.
through Secretary.
2. Directorate of Estate
M/o Urban Affairs & Employment
Nirman Bhawan
New Delhi - 1.
through: Director.
3. Estate Officer
Directorate of Estate
M/o Urban Affairs & Employment
Nirman Bhawan
New Delhi. Respondents

(By Shri R.V.Sinha, Advocate)

O R D E R

The applicant who is employed with the Ministry of Finance was allotted a Government Quarter No.42/6, Andrews Ganj, New Delhi in July, 1992. He claims that he had been living in the quarter continuously along with the family members as well as his sister and her three sons. His sister has been deserted by her husband. As the accommodation allotted to him was small, he had no option but to shift part of his family to the house of his mother at A-196-197, Shakarpur. He submits that on the basis of a cursory enquiry and without consideration of the proof submitted by him the allotment of the quarter was cancelled on the allegation of subletting. He filed an appeal before the Additional Session Judge

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but the same was also dismissed. Consequently he was made to vacate the accommodation. His grievance is that not only the order of cancellation and of eviction was illegal and liable to be setaside, but also the order of the respondents for recovery of damage rent for the period of occupation after cancellation, is harsh and unwarrented and therefore liable to be set-aside.

2. The allegation is denied by the respondents. They have also raised an objection that the application is barred by limitation. The application for condonation of delay is also resisted by the respondents.

3. I have heard the counsel. Shri Vinod Kumar, learned counsel for the applicant drew my attention to the Government orders regarding subletting and sharing of accommodation. The Directorate of Estates OM dated 12035(17)/78-Pol.II dated 26.5.1978 and OM No.12035(52)/78-Pol.II dated 25.1.1979 provides that:

''Subletting' includes sharing of accommodation by an allottee with another person with or without payment of licence fee by such other persons;

Explanation:- Any sharing of accommodation by an allottee with close relations shall not be deemed to be subletting.

XXV.: Sharing of Accommodation - Definition of close relations:

The following are to be treated as close relations:-

- (1) Father, Mother, Brothers, Sisters, Grandfather and mother and Grandsons and daughters
- (2) Uncles, Aunts, First Cousins, Nephews, Nieces, directly related by blood to allottee.
- (3) Father-in-law, Mother-in-law, Brother-in-law, Son-in-law, Daughter-in-law.
- (4) Relationship established by legal adoption.

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4. The learned counsel submitted that admittedly the inspection party found the sister of the applicant in occupation. Sharing of accommodation by the sister is not considered subletting and hence the order of the Estate Officer is contrary to the provisions of government rules.

5. I have considered the matter carefully. The benefit of the Rules cited by the learned counsel for the applicant can be availed of by the applicant only if there is a sharing of accommodation. However, the applicant installed his sister and his family in the Government house allotted to him and himself stayed with his family elsewhere then it cannot be accepted as sharing the accommodation with his close relatives. The Estate Officer had found that the applicant was maintaining two ration cards one on the address of the accommodation allotted to him and to other at Shakarpur. His explanation that the same had been done because the Government accommodation being small he could not keep his sister as well as his own children in the Government accommodation does not stand to reason, more so when he states that he was staying in the Government accommodation while his wife and children were staying elsewhere. In any case there is no allegation that the applicant did not have a proper opportunity to present his case before the Estate Officer. It can also not be said that the Estate Officer had no evidence on the basis of which he could not reach the conclusion of subletting. Hence there is no basis for reappreciating the evidence and displacing the conclusion of the Estate Officer.

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6. Even otherwise the application is liable to be dismissed for latches. The impugned order of the cancellation of allotment is of 1995 while this OA has been filed in 1997. The explanation of the applicant that he had approached the Court of Additional Session Judge and that thereafter he had been engaged in finding alternative accommodation for his own family as well as that of his sister and her family is not tenable and hence is rejected.

6. In the result the OA is liable to be dismissed both on the ground of limitation as well as on merit. It is accordingly so ordered.

R.K. Aheoja -
(R.K. Aheoja)
Member (A)

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