

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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HON. SHRI R.K. AHOOJA, MEMBER (A)

NEW DELHI, THIS 29th DAY OF MAY, 1997.

R.A. NO. 205/96
OA NO. 1513/95

SHRI ASA RAM
S/o Sh. Kale Ram
Asstt. Operator
Electrical Division No. XII
Sub-Division No. IV, CPWD
Baba Kharak Singh Marg
New Delhi

R/o Sector III/1513
M.B. Road
NEW DELHI

...APPLICANT

(By Advocate - Shri B. Krishan)

VERSUS

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

2. The Estate Officer
Directorate of Estates
4th Floor, B Wing
Nirman Bhawan
NEW DELHI

...RESPONDENTS

(By Advocate - Mrs. P.K. Gupta)

ORDER

The applicant in the O.A. had assailed the order of eviction as well as cancellation of the allotment made in his favour. The respondents had issued a show cause notice to him in January 1992 as to why the allotment should not be cancelled on grounds of subletting. After due opportunity, the allotment was cancelled. An appeal by the applicant was also rejected on 7.4.92. This was followed by an eviction order on 15.3.1994. The order was set aside and the case remanded by the District Judge before whom an appeal under Section

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9 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971 was preferred. However, the Estate Officer reconfirmed the order of eviction which led to the filing of OA No.1513/95. The same was however dismissed by the impugned order of this Tribunal.

2. The petitioner in the present R.A. contends that while in the impugned order the Tribunal has given its finding and judgement on the question of eviction, it has not done so on the question of cancellation of allotment. The petitioner submits that there is a patent error in the order in-as-much as it has been concluded that it would be outside of the jurisdiction of the Estate Officer in the scope and meaning of Section 5 of the PP Act that he should view the order by a competent administrative authority or act as an appellate authority and appreciate the evidence before the administrative authority to see if the cancellation of allotment was justified.

3. I have heard the ld. counsel for both sides on various occasions. Shri B. Krishan, ld. counsel for the applicant, submitted that the Estate Officer was required to determine whether the applicant was in unauthorised occupation and even if the finding was in the affirmative, he had to determine whether the applicant should be evicted. The determination of both these aspects necessarily involved seeing whether the cancellation was done on valid grounds because otherwise the Estate Officer would have to conclude that even in the face of the order of cancellation, the applicant was not liable to be evicted. He further submitted that though he had relied on the judgement of this Tribunal in S. GULAB JAN VS. ESTATE OFFICER 1990 (2) ATIT 152, the same was overlooked.

4. The ld. counsel for the respondents on the other hand submits that there is no error apparent on the record.

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The Tribunal has come to a certain conclusion for which reasons have been given. The applicant, by going over the same grounds agitated in the O.A., cannot seek a change through an R.A.

5. I have carefully considered the matter, having heard the arguments on both sides and also having perused the records, I am in perfect agreement with the ld. counsel for respondents that the petitioner is seeking to go over the already covered ground. His remedy therefore lies in appellate jurisdiction and not through a review. The R.A. is therefore dismissed being devoid of merit. No costs.

R.K. Ahooja
(R.K. AHOOJA)
MEMBER (A)

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