

2
9
Central Administrative Tribunal Principal Bench

O.A. No. 1133/2000

New Delhi this the 26th day of September, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri V.K. Majotra, Member (A)

Shri Nisheeth M. Katara
S/o late Shri V.S. Katara
Railway Flat No. 7, Chelmsford Road
New Delhi. - Applicant
(By Advocate: Shri R.R.Rai proxy counsel for
Shri B.S. Mainee)

Versus

Union of India : Through

1. The Secretary
Railway Board
Ministry of Railways
Rail Bhawan
New Delhi.

2. The General Manager
Northern Railway
Baroda House
New Delhi.

3. Shri R.K. Singh
Estate Officer
Northern Railway Headquarter
Baroda House
New Delhi

4. The Director of Estate
Directorate of Estate
Ministry of Urban Development
Nirman Bhawan, New Delhi.

5. The Secretary
Ministry of Personnel, Public Grievances
& Pension
Department of Personnel and Training
Ministry of Home Affairs
North Block, New Delhi. - Respondents
(By Advocate: Shri R.L. Dhawan)

ORDER (Oral)

By Smt. Lakshmi Swaminathan, Member (J)

This O.A. has been filed by the applicant impugning the order passed by the Estate Officer, Northern Railway Headquarter office, Baroda House, New Delhi dated 6.6.2000 (Annexure A-1). In this order the competent authority has clearly mentioned that he is acting in pursuance of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the "Eviction Act"). He

182

has, inter alia, stated that in exercise of the powers conferred on him under sub-section (2A) of Section 7 of the Eviction Act, he has ordered the respondent (applicant in the present case) to pay damage charges from 16.2.99 ~~to~~ till vacation of Railway Flat No.7, Chelmsford Road, New Delhi in his possession. It is also stated by the competent authority that the action of recovery of damage charges shall be taken as per the procedure prescribed under the Eviction Act. In this order the Estate Officer has also passed order against the respondent (applicant in the present case) or any other person who is in unauthorised occupation of the premises in question, to vacate the same in exercise of the powers conferred on him under Section 5(1) of the Eviction Act.

2. The Tribunal by order dated 20.6.2000 had given an ad-interim order restraining the respondents from giving effect to the impugned order till the next date which has been continued.

3. Shri R.R. Rai learned counsel has prayed for a day's adjournment to enable Shri B.S. Mainee learned counsel to make his submissions who, he states, is busy in the High Court. Later on, he states that the case may be heard in the later part of the day so that Shri Mainee may make his submissions. We do not think any useful purpose would be served by granting an adjournment as prayed for because the law as laid down by the Supreme Court is very clear in the facts and circumstances of the case.

197

4. On 6.9.2000, the Hon'ble Supreme Court in Union of India Vs. Shri Rasila Ram & Ors. (Civil Appeal No. 1301-04/1990) have held as follows:-

"The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the "Eviction Act") was enacted for eviction of unauthorised occupants from public premises. To attract the said provisions, it must be held that the premises was a public premises, as defined under the said Act, and the occupants must be held unauthorised occupants, as defined under the said Act. Once, a Government servant is held to be in occupation of a public premises as an unauthorised occupant within the meaning of Eviction Act, and appropriate orders are passed thereunder, the remedy to such occupants lies, as provided under the said Act. By no stretch of imagination the expression any other matter in section 13 (q) (v) of the Administrative Act would confer jurisdiction on the Tribunal to go into the legality of the order passed by the competent authority under the provisions of the Public Premises (Eviction of unauthorised Occupants) Act, 1971. In this view of the matter, the impugned assumption of jurisdiction by the Tribunal over an order passed by the competent authority under the Eviction Act must be held to be invalid and without jurisdiction. This order of the Tribunal accordingly stands set aside. The appeals are accordingly allowed (emphasis added)".

5. In view of the aforesaid order of the Hon'ble Supreme Court setting aside the Full Bench judgment of the Tribunal in Rasila Ram's case, and having regard to the facts and circumstances of the present case, in which the applicant has impugned the orders passed by the respondents/Estate Officer under the provisions of the Eviction Act, we are of the view that this Tribunal does not have jurisdiction in the matter. In the circumstances, OA is disposed of as not maintainable in the Central Administrative Tribunal in terms of the judgment of the Hon'ble Supreme Court

8-

-4-

dated 6.9.2000, leaving it open to the applicant to pursue his remedies in accordance with law.

6. Needless to say that the aforesaid interim order also stands vacated. No Costs.

V.K. Majotra

(V.K. Majotra)
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

CC.