

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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(9)

O.A. No. 428/2000
T.A. No.

DATE OF DECISION 8-11-2000

Sh.Gopal Prasad ... Petitioner

Sh.S.D.Kinra ... Advocate for the
Petition(s)

Versus

UOI & Ors ... Respondents

Sh.Rajinder Pandita ... Advocate for the
Respondents

CORAM :

The Hon'ble Smt.Lakshmi Swaminathan, Member (J)

The Hon'ble

1. To be referred to the Reporter or not? Yes
2. Whether it needs to be circula-ted to
other Benches of the Tribunal? No

Lakshmi Swaminathan
(Smt.Lakshmi Swaminathan)
Member(J)

Central Administrative Tribunal
Principal Bench

O.A. 428/2000

New Delhi this the 8 th day of November, 2000

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Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Gopal Prasad, Daftry,
Quarter No. 6, Block 145,
Sector-I, M.B. Road,
New Delhi.

... Applicant.

(By Advocate Shri S.D. Kinra)

Versus

1. Union of India through
the Secretary,
Ministry of Urban Affairs,
Govt. of India, Nirman Bhawan,
New Delhi.
2. The Director of Estates-II,
Directorate of Estates,
Govt. of India,
Nirman Bhawan, New Delhi. ... Respondents.

(By Advocate Shri Rajinder Nischal)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant being aggrieved by the order passed by Respondent 2 through the Assistant Director of Estates (Sub) dated 3.2.1999, has filed this application praying that the impugned order may be quashed, and for a further direction to the respondents to allot him Quarter No. 5, Block 145 in Sector-I, M.B. Road, New Delhi.

2. This O.A. has been filed on 13.3.2000 and by Tribunal's order dated 26.4.2000, the respondents were directed to maintain status quo as on that date regarding the occupation of the Government quarter in question. This interim order has been continued till further orders by another order dated 4.7.2000. Thereafter, the case was

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admitted and had been listed for final hearing on 6.11.2000.

3. The applicant has also filed MA 2655/2000 on 20.10.2000. Shri S.D. Kinra, learned counsel has submitted that the applicant has received a letter from the respondents to remit certain amount. He has also submitted that the order to maintain status quo, referred to above should continue till final disposal of the case by the Tribunal. In the MA, the applicant has prayed to direct Respondent 2 to recall the order dated 13.7.2000 for recovery of dues from him, until the final disposal of the case.

4. Shri Rajinder Nischal, learned counsel for the respondents has submitted that as the case has now been listed for final hearing, the Tribunal may dispose of the case in the light of the judgement of the Hon'ble Supreme Court in Union of India Vs. Rasila Ram & Ors. (Civil Appeal Nos.1301-04/1990), decided on 6.9.2000 (copy placed on record).

5. Shri S.D. Kinra, learned counsel has submitted that although the Supreme Court in Rasila Ram's case (supra) has held that the Tribunal has no jurisdiction in the matter under issue in the present O.A, it ought to further protect the applicant's interests. He has very vehemently submitted that since the applicant had already approached the Tribunal prior to the judgement of the Supreme Court dated 6.9.2000, and an interim order to maintain status quo has also been passed by the Tribunal on

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26.4.2000, that order preventing the respondents from taking any further proceedings in pursuance of the impugned order should be continued for a further period. He has submitted that in some cases where an order has been passed by a competent court, the Court stays its own order to enable the aggrieved party to approach the higher court. He has contended that similarly even if the Tribunal does not have jurisdiction in the present case, the status quo order should be continued for some time to prevent the respondents taking any further action to evict the applicant from the Government quarter in pursuance of the impugned order dated 3.2.1999. His contention is that such an order is required to be passed by the Tribunal in the interest of justice to the applicant, although he does not dispute the position in law, following the judgement of the Apex Court dated 6.9.2000 in Rasila Ram's case (supra) that the Tribunal does not have jurisdiction to go into the legality or otherwise of the impugned order. Learned counsel has submitted that as his diary is full and he is very busy with other cases, it is not possible for him to pursue the applicant's case in the competent Civil Court. He has therefore, submitted that it is necessary to continue the interim order and give him sufficient time, which according to him, would be either 30 days or even 10 days.

6. On the other hand, Shri Rajinder Nischal, learned counsel has submitted that as the position is clear that the Tribunal does not have jurisdiction with regard to the issues raised in the present O.A. after the Apex Court's order dated 6.9.2000 (supra), no further directions

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as prayed for by the applicant's counsel can be given by this Tribunal to maintain status quo which would be contrary to law.

7. The Apex Court in Rasila Ram's case (supra) has held as follows:

"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".

8. Having regard to the facts and the issues raised in the present O.A., and the aforesaid order of the Supreme Court, it is clear that the Tribunal does not have jurisdiction to adjudicate on the legality of the impugned order passed by the competent authority, under the provisions of the Public Premises (Eviction of unauthorised Occupants) Act, 1971. This position is not seriously disputed by the learned counsel for the applicant.

9. In view of the above, the further contentions of the learned counsel for the applicant, namely, that in spite of the fact that the Tribunal does not have jurisdiction to entertain the present O.A., a further order should be given restraining the respondents from taking any steps for eviction of the applicant from the quarter cannot be accepted. In Most. Rev. P.M.A. Metropolitan & Ors.

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Vs. Moran Mar Marthoma (JT 1995(5) SC 1), it has been held by the Supreme Court that the plea as to maintainability of the suit for lack of jurisdiction may be raised even in the Supreme Court, as the bar or lack of jurisdiction can be entertained at any stage "since an order or decree passed without jurisdiction is non-est in law". In another case, Union of India & Ors. Vs. Baleshwar Singh (1996(1) SLR 175), the Supreme Court has also referred to the fact that the objection relating to lack of jurisdiction was not raised before the High Court but raised before the Supreme Court for the first time and that objection was entertained and the case was referred to the Tribunal which had jurisdiction in the matter relating to recruitment or other service matters, for action according to law. In Harivansh Kumar Vs. Union of India & Ors. (Kalra's AT Full Bench Judgements 1994-1996 (Lucknow Bench) 278), the Tribunal has held that the Tribunal cannot entertain the claims in regard to such matters over which the Tribunal does not have jurisdiction even if it has jurisdiction to entertain the application and adjudicate the same in regard to certain other reliefs which are also claimed in the application (see also the observations of the Tribunal in Dr. J.P. Sharma & Ors. Vs. Chief Secretary, Delhi Administration and Ors. (Kalra's AT Full Bench Judgements 1994-1996 (Principal Bench) 262).

10. Therefore, once it is held that the Tribunal does not have jurisdiction to entertain the disputes raised in the present O.A., it would not appear legal or proper to give further directions in the matter because an order passed without jurisdiction is non-est in law and may not be worth the paper it is written on. The contentions of the learned counsel for the applicant that he is very busy

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and his diary is full and, therefore, he is not able to take up the applicant's case before the competent Civil Court, are insufficient reasons and are only mentioned to be rejected. It goes without saying that any order to be passed by a Court can only be done in accordance with law in a matter over which it has jurisdiction and not otherwise. In this view of the matter, the submissions made by Shri S.D. Kinra, learned counsel to continue the directions given to the respondents to maintain status quo passed by the Tribunal on 26.4.2000, even after the Apex Court's order dated 6.9.2000 in which it has been clearly stated that such an order would be without jurisdiction is neither legal or justified. That plea is accordingly rejected. It is also relevant to note that the aforesaid order of the Apex Court is dated 6.9.2000 which the applicant's counsel was also aware of, and in the mean time before this case was listed for final hearing, he could have taken necessary steps to approach the competent Civil Court, if he chose to.

11. In the result, as the O.A. is not maintainable in the Tribunal being barred by jurisdiction, it is disposed of, leaving it open to the applicant to pursue his remedies in accordance with law. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

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