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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. No. 1057/88 Date of
Decision: 28.09.1993

Shri Lalitha Prasad Petitioner

vs.

Station Commander Respondents
Station Headquarters
Delhi Cantt.

Coram:

Hon'ble Mr. J.P. Sharma, Member (J)
Hon'ble Mr. S.R. Adige, Member (A)

For the Petitioner: Shri S.P. Sharma, Counsel
For the Respondents: Shri M.L. Verma, Counsel

JUDGEMENT

(Delivered by Hon'ble Mr. J.P. Sharma, Member (J)
(oral)

The applicant is civilian Driver in 505 Army Base Workshop, Delhi Cantt. He was allotted Government residence Quarter No. P-53/15 Kabul Lines, Delhi Cantt by the Order dated May 18, 1987. By the Impugned Order dated June 30, 1987 (Annexure 'B') SSO - station Commandant Station Headquarter, Delhi Cantt declared the applicant as unauthorised occupant of the said quarter No. P-53/15 Kabul Lines, Delhi Cantt (though in the Head of Order dated June 30, 1987, the Quarter No. P-53/14 Kabul Lines is mentioned). The applicant was directed to vacate the said quarter. He made a representation dated July 20, 1987 to the Station Commander followed by another representation dated September 19, 1987. The applicant was replied by the Office Order dated December 4, 1987 that during the surprise check by the Sector commander 144 AD Regiment (SP) you was found to sublet the accommodation hence the

statement given subsequently is incorrect and instructed to vacate the said Quarter. He was again informed to this effect by the Office Order dated December 18, 1987.

The applicant has also made representations to the Estate Officer. Ultimately the allotment order in favour of the applicant was cancelled with effect from August 29, 1987 by the Office Order dated January 18, 1988 passed by SSO (RF) Station Commandant, Delhi Cantt.

2. The applicant filed the present application on June 2, 1988 and by the order dated 8.6.1988 an Interim Relief was granted to the applicant that he should not be evicted from the Government premises.

3. The respondent contested the application and stated that the applicant has sublet the Government accommodation to Shri Dinesh Chandra and his mother. It is stated that on June 12, 1987 a complaint was submitted to the Station Headquarters, Delhi Cantt that the applicant has sublet the Quarter No. P-53/15 Kabul Lines on which Sector Commander was asked to check the correctness of the same. The Sector Commander found the complaint correct and one Dinesh Chandra and his mother was found residing in the same accommodation. In view of the SAO 308/78 Para 16 & 17 the public premises is found sublet to an unauthorised person the allottee is not entitled to retain the Government accommodation and would be asked to vacate the same within a period of 60 days. Thus it was the local inspection of the

Government accommodation which led the Station Commander, Delhi Cantt to believe that the applicant has sublet the accommodation to Shri Dinesh Chandra and his mother.

4. The applicant has also filed the rejoinder and he has stated that Dinesh Chandra is my nephew who came alongwith his mother to stay with him after the death of the father of Dinesh Chandra. The father of Dinesh Chandra and the applicant are real brothers. We have heard the learned counsel for the applicant and none appeared for the respondent. We find that the Order of the Respondent cancelling the allotment is totally arbitrarily in the sense that the plea of the applicant made through various representations has not been properly considered. The case of the applicant since beginning has been that his brother Mahanand dies on May 30, 1987 at Delhi and his wife and son Dinesh Chandra had come to live with him only for a short period. The learned counsel for the applicant has filed a death certificate of Mahanand which shows that he dies on May 30, 1987 and the name of his father is Jit Ram. The name of the father of the applicant is also Jit Ram. This fact, therefore, cannot be said to be incorrect that Mahanand deceased is the father of Shri Dinesh Chandra is the real brother of the applicant.

5. A sub-tenancy means letting out the premises to person other than the family members for consideration or for gain. Merely keeping a relation that too a nearer one and at a time when there was a casualty in the family and to condole the bereaved, it

- 4 -

cannot be said that harbouring those relations would amount to subletting of the premises. In fact if the respondents have cared to go into the representations of the applicant, then they could have got a better picture about the truthfulness of the case of the applicant. The applicant has alleged that he has also ration card and other incident in the form of documents to show that he was living in the same premises with his family. In such a situation the Order passed without application of mind directing eviction of the quarter allotted to the applicant and the subsequent order of allotment in January 1988 cannot be sustained. It was expected of the respondents to look into the grievance of the employee allottee of premises P-53/15 Kabul Lines, Delhi Cantt and then could have passed any order for cancellation of allotment. In the reply filed by the respondent there is no mention that any preliminary enquiry besides the local inspection has been done to arrive at the conclusion that the applicant has sublet the premises to third person. In view of the facts and circumstances the Order of Eviction as well as cancellation of allotment and declaring the applicant as unauthorised occupant are quashed and set aside. The applicant is allowed with the direction to the respondent to allow the applicant to continue in the said premises according to the extent of rule and charge the normal fee. The death certificate filed by the learned counsel for the applicant has been taken on record. Costs on parties.

Adige
(S.R. ADIGE)
Member(A)

Sharma
28.9.93
(J.P. Sharma)
Member(J)

Mittal