

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

M.P.No. 18/91 in
O.A.No.675/90

Date of Order : 15.1.1991

(19)

SHRI RAGHUBIR & ORS.

PETITIONERS

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

THE HON'BLE MR. P.C. JAIN, MEMBER(A)

FOR THE PETITIONERS

SHRI B.S. MAINEE

FOR THE RESPONDENTS

SHRI O.N. MOOLRI

O R D E R

This order disposes of M.P.No.18/91 in O.A.,
No.675/90, seeking setting aside of the orders dated
26.12.1990 and dt. 1.1.1991 passed in this O.A.

2. The facts leading to the filing of the present
M.P., briefly stated, are that the O.A.No.675/90 was
filed jointly by S/Shri Raghubir and Rakesh Kumar,
respectively, father and son (herein after mentioned
as applicant No.1 and 2), with the prayer that tenancy
of Applicant No.1 in respect of Government Quarter
No.7/3 S.O.J. Sarojini Nagar, New Delhi, be not terminated
and that the said quarter be regularised in favour
of second applicant. On 18.4.1990, when the O.A. came
to be heard before the Bench, for the first time, by
way of interim relief, while issuing notice of the
O.A., to the respondents, it was ordered that till
2.5.1990, the applicants be not evicted by physically
dispossessing them from the said quarter. This was
extended vide orders dt. 2.5.90, 10.5.90, 28.5.90,

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31.5.90 and 5.6.90 till 16.7.1990. On 16.7.90, after elaborate arguments from both the sides, the case of Applicant No.1 and that of Applicant No.2 was differentiated and while continuation of interim order earlier passed was denied to the former in respect of Applicant No.2, the following order was passed;—

".....The second relief in the original application or a direction to the respondents to consider regularisation of the quarter in favour of the second applicant deserves to be gone into and as such the allegation of the second applicant that he is also in occupation of the quarter, is not in dispute, we are of the view that it is only fair that the respondents be restrained from evicting the second applicant from the aforesaid quarter for a period of six months....."

3. During the currency or the operation of the afore-mentioned order, the respondents got the quarter in question vacated on 11.12.1990. Accordingly, against this action of the respondents, M.P.No.3241/90 was moved by Applicant No.2, with a prior notice to the learned counsel for the respondents, who received a copy of the M.P. on 21.12.1990 itself, as per an endorsement to this effect on the M.P. The same was listed before the Bench on 21.12.1990, but, vide an endorsement of the date, by the Court Master to the effect: "No time left. M.P. to be listed before the Vacation Bench, on the very first day of its sitting", the same was listed before the Vacation Bench on 26.12.1990. The learned counsel for the respondents was, however,

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present M.P., at the first place, pleaded that Applicant No.2 in the original application has no locus standii in respect of quarter in question, and therefore, the same has been rightly got evicted from applicant No.1 in O.A., possession of which has also been handed over by his other son, namely, Sh. Suresh Kumar. This plea of the petitioner in the M.P. has been stoutly opposed by the other side, by referring to para 4.6 of the OA, in which it has been mentioned that Applicant No.2 had been living with Applicant No.1, in the quarter in question, and in the corresponding para in the counter filed on behalf of the respondents, this contention has not been specifically denied, rather it has been mentioned as "4.6 is admitted in so far as it is a matter of record", which speaks for itself and needs hardly any elaboration.

After carefully considering the rival contentions in regard to the above, we find that the contention put forth by the learned counsel for the petitioners is absolutely without any force or merit. It seems that the respondents have conveniently forgotten that order passed by a Bench of this Tribunal on 16.7.90 had dwelt upon this aspect and taking note of the rival case in this regard, had restrained the respondents to evict the Applicant No.2 from the said quarter for a period of six months, which goes upto 15.1.1991.

7. The next contention raised by the learned counsel for the petitioners in this M.P. was that in a pending case, if an M.P. was sought to be moved by a party, a proper notice thereof should have been given to the other party, and the same having not been done in this

not present on this date and after hearing the learned counsel for the petitioners, the following orders were passed on that date:-

MP No.3241/90 in OA 675/90

Petitioners in the MP through Shri B.S. Maine, Counsel.

Heard.

Issue notice of MP No.3241/90 to the respondents, returnable on 8.1.1991. In the meanwhile, the respondents are restrained from evicting applicant No.2 in OA 675/90 from Quarter No.7/3 S.O.J. Sarojini Nagar, New Delhi or restore the possession thereof forthwith, if already evicted, in compliance with the order dated 16.7.90 passed by a Bench of this Tribunal.

Compliance of this order be ensured with immediate effect.

Service dasti.

sd/-
(T.S. OBEROI),
MEMBER(J)

sd/-
(D.K. CHAKRAVORTY)
MEMBER(A)

4. On an another M.P. No.2/91 moved by the Applicant No.2 in the original application complaining that the order passed by the Bench on 26.12.90 has not been given effect to, by the respondents, a further detailed order was passed on 1.1.91, directing inter alia the respondents to restore the possession of the quarter in question to the petitioner in the M.P. within 24 hours on the receipt of a copy of this order. Against the above mentioned two orders i.e. order dt. 26.12.90 and 1.1.91, the present M.P.(No.18/91) has been filed, seeking cancellation of the same, by giving immediate hearing.

5. Detailed and elaborate arguments were addressed by both the sides.

6. The learned counsel for the petitioners in the

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case, the Vacation Bench ought not to have passed order on 26.12.1990, and again on 1.1.1991, when without a notice of M.P.No.2/91, on a mere mention by the learned counsel for the petitioner in that M.P., the matter was taken up, and order passed. After carefully considering this contention, we are again of the view that this too, has to be rejected. In the presence of order dt. 16.7.90 and still getting the quarter vacated during the currency of that order, and inspite of a notice served upon the learned counsel for the respondents in respect of an M.P. for hearing to that effect, and choosing not to appear on 26.12.1990, could not have been allowed to go unnoticed. In a case like this, if the interests of justice call for, the courts are expected to step in, to ensure implementation of their orders, and mere technicalities not allowed to stand in the way.

8. Another point put forth by the learned counsel for the respondents/petitioners in the MP was that because of stay in Rasila Ram's case, and the matter having been referred to Full Bench, this Bench ought not to have passed impugned orders dt. 26.12.1990 and 1.1.1991, or would have referred this matter also to the same Bench, for consideration/adjudication. In this regard, it would suffice to say that the position has to be judged in the context of facts and circumstances involved herein. In this case, as earlier mentioned, inspite of a detailed order dt. 16.7.90, passed in the presence of the learned counsel for the respondents, no appeal or even a review thereof was sought for by them, and instead, the quarter was got vacated. In these circumstances, the interests of justice called for the passing of the orders in question, especially

views

because of the way in which vacation of the quarter was resorted to. In a situation like this, the courts have, to pass appropriate orders, to ensure implementation of their orders, to maintain the dignity of the process of law.

9. As a result of the foregoing, we do not find any force in the present MP, which is accordingly dismissed with no order as to costs.

(P.C. JAIN)
(P.C. JAIN)
15.1.91
MEMBER(A)

(T.S. OBEROI)
(T.S. OBEROI)
15.1.91
MEMBER(J)