

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A.No. 2142/91

Shri Mujahid Ul Islam Farooqui

Shri S.C. Jain

Date of Decision: 24.01.1992

Applicant

Counsel for the applicant

Vs.

Delhi Administration & Ors.

Shri M.K. Sharma

Respondents

Counsel for the respondent

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The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*

JUDGEMENT

(of the Bench delivered by Hon.Member Shri B.N. Dhoundiyal)

The Applicant Shri Mujahid Ul Islam Farooqui is aggrieved by the order issued by the Joint Secretary (Allotment) Land and Building Department, Delhi Administration, Vikas Bhawan, New Delhi on 03.09.1991, cancelling the allotment of Qrtr.No.340-C, Timar Pur Delhi to him, on the ground that he had sublet the flat.

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2. The applicant is working as Junior Engineer in the Delhi Administration and was allotted Flat No.340(C) Timar Pur, Delhi on 21.01.1989. On 25.07.1991, a Show Cause notice was issued to him mentioning that as a result of inquiry conducted on 04.05.1991, it was found that the Flat has been sublet by the applicant ^{there - by} by contravening Delhi Administration Allotment of Government Residences (General Pool) Rule, 1977. The order of cancellation has been challenged on the ground that it has been issued by the Joint Secretary (Allotment), whereas, under Rule-18 and Rule-2(e), only Director of Allotment, that is, Secretary, Public Works Department of the Administration, is competent to issue of such order.

3. The period for which the flat was sublet has not been mentioned. The applicant had stated in his representation that his family was at Mirzapur and he had been taking his meals at the hotel and used to lock his flat whenever he went outside to attend his duties. He has also alleged that he was not given any opportunity to defend himself and that the authorities have not applied their mind to the case. He has relied on a number of rulings which have been duly considered by us.

4. The respondents have stated that the allotment of residential accommodation to the Government employees is a subject under the administrative control of the Land and Building Department of Allotment Branch. The Secretary Land and Building is also the Secretary of Public Works Department and accordingly he is the Director of allotment under the relevant rules. The orders for cancellation were ^{by}

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issued with the approval of the Secretary Land and Building. On 04.05.1991, a survey was conducted when it appeared that the Flat in question had been sublet to one Shri Salim Ahmed S/o Shri M.H. Ahmed for the last one year. The applicant was given a Show Cause notice on 25.07.1991, giving him full opportunity to explain his case. His representation was considered by the competent authorities and rejected.

5. We have gone through the records of the case and heard the learned counsel for both the parties. In his rejoinder, the applicant has stated that there is no person of the name of Salim Ahmed. We also find that the survey report is based only on a single visit by the Niab Tahsildar, which simply stated as under:-

"Government accommodation No.340(C) Timar Pur, Delhi was allotted for your residence. It is reported that Sh/Smt. Mujahid Ul Islam Farooqui has sublet the Flat. Sh/Smt. Mujahid Ul Islam Farooqui submitted the reply to this office to Show Cause Notice No.F.4(340)/TP/Allet/L&B/3113, dated 25.07.1991, which is not found satisfactory.

Under the Rule 18 (i.e. consequences of Breach of Rules and Conditions) of the Delhi Administration Allotment of Government Residences (General Pool) Rules, 1977, the allotment of the said premises ceases to be effective.

In view of the above, the allotment of the above mentioned quarter/flat in favour of Sh/Smt Mujahid Ul Islam Farooqui stands cancelled with immediate effect."

6. In case of this kind, it will be necessary to record the statement of the employee living in the premises as also

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of the neighbours. It would also have been prudent to have this matter surveyed by Senior Officers alongwith some objective witnesses. Prima facie, we are of the view that any conclusion drawn about subletting by conducting a single visit should not be the basis for eviction, without other clinching evidence.

7. In view of the averment made by the applicant that there is no such person called Salim Ahmed, it has become even more doubtful, whether the report of the Naib Tahsildar is based on any proper enquiry.

8. In view of the above mentioned reasons, we hold that the impugned order dated 03.09.1991 was issued by the authorities without proper enquiry and without giving adequate opportunity to the applicant to prove his case. We, therefore, remand the case to the Director Allotment with the direction to hold a fresh inquiry after giving full opportunity to the applicant to explain his case. The hearing shall be completed and final orders passed within a period of 3 months of receipt of this order. In the meanwhile, the applicant shall not be dispossessed from Flat No.340(C), Timar Pur, Delhi, subject to his liability to pay the licence fee payable in accordance with the relevant Rules. Interim order issued on 20.09.1991 will continue in operation till then.

9. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 24/11/92
MEMBER(A)

P.K. Kartha
24/11/92
(P.K. KARTHA)
VICE CHAIRMAN(J)