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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2523/92

DECIDED ON : 8.4.93

Raj Kumar Sondhi

... Applicant

Vs.

Union of India & Others

... Respondents

COURT :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri O. P. Sood, Counsel for Applicant
Shri M. L. Verma, Counsel for Respondents

JUDGMENT

The applicant was allotted Government accommodation No. 43/11, CVD Lines, Delhi Cantt. while employed as Stores Superintendent in 505 Army Base Workshop. This accommodation was occupied by the applicant by virtue of an allotment letter dated 15.9.1987 and he occupied the same on 8.10.1987. A surprise check was ordered by the Sector Commandant, CVD, Delhi Cantt. and Shri Kishori Lal, Security Officer of CVD and four other members from the same Unit made the surprise check in March, 1991. It was found that the said accommodation was occupied by one Shri Dhan Singh and his wife. On the basis of this report, a letter dated 18.5.1991 was issued to the applicant that a surprise check was carried out on 27.3.1991 and that it was found that the quarter No. 43/11 was found sub-let to Shri Dhan Singh and he should vacate the Government accommodation within 60 days. The applicant failed to vacate the said premises as asked by the department. So, action under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'the PP Act, 71') was drawn against him and notices under Section 4 and Section 7(3)

of the said Act were issued on 5.10.1991 for filing objections, if any, on 12.10.1991 and for personal hearing on 19.10.1991. After hearing both the parties the estates officer passed the order of eviction dated 28.11.1992. Before passing of this final order, the applicant had filed this O.A. on 25.9.1992 in which he assailed the order of recovery of damages of rent by the order dated 12.3.1992 (Annexure-E) and he also assailed that he should not be dispossessed on the complaint of respondent No.4, i.e., Shri Kishori Lal, Civilian Asstt. Security Officer, CVD Workshop, Delhi Cantt. without process of law and use of force.

2. The applicant has prayed for the grant of the following reliefs :-

- "(a) to quash the proceedings under Sec 4(2) (i) (b) (ii) of the P.P. Act, 1971 for eviction of the applicant from the Govt premises No. 43/11 C.V.D.Lines in the case No.39/91 issued by the Estate Officer Delhi Cantt.
- (b) to quash the proceedings under Sec 7(3) of the PPE Act 1971 for imposition of damage rent vide case No.39/91 order dated 5 Oct 1991.
- (c) to quash damages rent recovery order for Rs.9009.00 dated 1.11.1991 and order dated 12.3.1992 for Rs.21489.00.
- (d) to declare the report/complaint dated 27.3.1991 submitted by respondent No 4 illegal and against rules and consequently to set aside the same."

3. On 30.9.1992, the recovery order was to be effected vide order dated 12.3.1992 was stayed. On 21.1.1993, the applicant filed MP-372/93 stating therein that on 13.1.1993 when the family of the applicant had left for their relatives after locking the residence and the applicant had gone on duty, the officials from the estates officer, Delhi Cantt broke open the lock of the premises No. 43/11, CVD Lines, Delhi Cantt and

carried away in a truck all the belongings, goods and valuables and locked the premises. The applicant made a written complaint of this incident to the Police Station, Delhi Cantt. on 13.1.93 and to the Police Commissioner on 14.1.1993. So, in this M.P. the applicant has prayed that the possession of the premises No. 43/11, CVD Lines, Delhi Cantt be restored to the applicant and the goods, articles and valuables removed from the said premises be also returned to him. He has also claimed damages from the respondents for the harassment undergone by him and his family. He has further prayed that a suitable accommodation be provided to him of type-III. The case of the applicant is that Shri Kishori Lal, Assistant Security Officer, has made a false complaint and inspite of that the respondents have proceeded under the PP Act, 1971 and also issued damages bill of exorbitant amount. It is further stated that in the alleged notice dated 12.3.1992 the damages are being imposed with effect from April, 1991 when there is no notice or order from the estates officer as per rules.

4. The respondents have contested this application and filed a reply to the O.A. stating that the applicant has sub-let the accommodation to one Shri Dhan Singh and proceedings were drawn after the applicant refused to vacate the premises on the show cause notice dated 18.5.1991. It is further stated that the matter of damages/recovery has been considered in the estate officer's order dated 28.11.1992 which has been filed as Annexure R-III to the counter. It is stated that the action of the respondents is correct as per law because the estates officer has already decided the matter vide order dated 28.11.1992.

5. The respondents have also filed reply to the MP-372/93 in which it is stated that the applicant has violated the rules 16 and 17 of the SRO 308/78 by sub-letting the premises to one

Shri Dhan Singh and that the allotment in his favour was cancelled and he was declared as unauthorised occupant from 27.3.1991. Under sub-section (1) of section 5 of the PP Act, 1971 a notice was served on the applicant on 28.11.1992 to vacate the premises within 15 days but he refused/failed to comply with the said order. Accordingly, the evication order was issued on 2.1.1993 to vacate the said premises by 8.1.1993 and compliance report was to be submitted to the estates officer by 14.1.1993 but the applicant did not vacate the premises. Thus, it is prayed that the MP be dismissed.

6. I have heard the learned counsel for the applicant at length and perused the record. The applicant came before this Tribunal only at the time when the proceedings under the PP Act, 1971 were pending against him with regard to the government premises No. 43/11 CVD Lines, Delhi Cantt. The applicant has also participated in those proceedings. The estates officer has passed the final order in those proceedings on 28.11.1992. Though, this application remained pending after it was filed in September, 1992, the applicant did not assail the order of November, 1992. It was only in the MP-372/93 that the applicant has prayed for restoration of the premises and for return of the certain article of goods removed from the said premises after effecting the eviction order against the applicant. He has not assailed in this MP also the order of eviction dated 28.11.1992. It is also not alleged that the estates officer was not duly competent to draw proceedings against the applicant under the PP Act, 1971. In fact, in the first para of the application the applicant has himself stated that he should not be dispossessed from the said quarter without process of law. The only forum available to the government for eviction of unauthorised occupants is under

the PP Act, 1971. The applicant has been duly served with notice under sections 4 and 7 of the said Act. A perusal of the order of the estates officer shows that the applicant has participated in the proceedings and there is also a mention in the order that on 12.9.1992 the applicant stated that he had partially vacated the accommodation and that he will be vacating the quarter by 15.9.1992.

7. Learned counsel for the applicant was repeatedly asked whether he wants to amend the O.A. as all the reliefs he has claimed in paras 8 (a) to (d) have become infructuous as the proceedings under the aforesaid Act have since ended and the order has been delivered on 28.11.1992. Not only this, this order has also been carried out effectively with the help of the police force as evidenced by Annexure-V filed with the reply to the MP which is dated 2.1.1993. In this case the compliance report was sought by 14.1.1993. Thus, the eviction of the applicant was carried out by lawful authority under an order dated 28.11.1992 passed by the competent authority. The applicant, therefore, cannot be granted the relief he has prayed for in this O.A.

8. As regards the prayer made in MP-372/93, the applicant's cause of action has arisen by virtue of the order dated 28.11.92 which he has not assailed even in this M.P. nor has he got the O.A. Suitably amended assailing that order of the estates officer. The possession of the quarter cannot be restored to the applicant in view of the eviction order dated 28.11.1992. So long as that order subsists, the applicant cannot be restored to possession of the aforesaid quarter. Similarly, no question arises of imposing any damages on the respondents as the respondents have acted on the basis of the order issued by lawful authority

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under the PP Act, 1971. Regarding the allotment of another accommodation, the applicant's cause of action is beyond the scope of this O.A. as well as the M.P.

9. In the above M.P. the applicant has also prayed for return of certain goods and articles alleged to have been removed from the premises. For this, the applicant has already taken action by lodging a report with the Police Station concerned. He has not made any representation to the estates officer or to another competent authority for return of those articles, if at all they were removed, while effecting the order of eviction dated 28.11.1992.

10. In view of the above facts and circumstances, the present application is disposed of as follows :-

- (a) The O.A. has become infructuous by virtue of the decision of the estates officer in case No.39/91 wherein under section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 an eviction order has been issued.
- (b) The order dated 12.3.1992 for recovery of damages has also become ineffective in view of the order passed by the estates officer dated 28.11.1992 levying damages against the applicant and no recovery from the applicant can be made on the basis of the order dated 12.3.1992.
- (c) The applicant shall be free to assail the order dated 28.11.1992 in the proper forum subject to the law of limitation as that has given a different cause of action to the applicant.
- (d) The applicant shall also be free to move for return of any articles alleged to have been removed from the premises by virtue of execution of the order of eviction dated 2.1.1993.

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(e) The applicant shall also be free to approach the respondents for allotment of another accommodation as per extant rules and this application will not bar his claim, if he is entitled to the same allotment.

11. On the facts and in the circumstances of this case, the parties are left to bear their own costs.

J. P. Sharma 814/93
(J. P. Sharma)
Member (J)

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