

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

(7)

D.A.No.1135/93

New Delhi, this the 8th day of September 1994.

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER(A)

Shri Raj Kumar Sondhi  
s/o Shri Ram Lal  
43/11, CVD Line,  
Delhi Cantt.

..Applicant

(By Advocate Shri SS Tiwari)

Vs.

1. UDI  
Service through Secretary,  
Ministry of Defence, New Delhi.

2. Estate Officer  
Station Headquarters  
Delhi Cantt.

3. Commandant  
505 Army Base Workshop  
Delhi Cantt.

4. Shri Kishori Lal  
Civilian Asstt. Security Officer,  
Central Vehicle Depot  
Delhi Cantt.

..Respondents

(By Advocate Shri ML Verma)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER(A)

The applicant is working as Store Supdt. in 505, Army Base Workshop Delhi Cantt. and prior to this he was working with Headquarters Technical Group EME Delhi Cantt. He had been allotted government accommodation House No.43/11 within the Public Premises CVD Lines Delhi in the year 1987. When it came to notice of Station Headquarters Delhi Cantt that the accommodation has been sublet to an unauthorised person, a surprise check was ordered by the Sector Commander CVD Delhi Cantt. A team of officers consisting of Shri Kishori Lal Security Officer and four other members from the same unit was deputed for this and the surprise check was carried out on 4-3-1991. Based on the surprise check, a letter

dated 18-5-91 was issued to the applicant stating that the quarter was found sublet and asking the applicant to vacate the government accommodation. Since the vacation did not take place, proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act 1971 were initiated. The applicant filed O.A. No.2523/92 mainly for quashing the proceedings under the PPE Act. On 30-9-92 an interim order was passed staying imposition of damage rent but before the O.A. was finally disposed of, the Estate Officer had completed his proceedings under the PPE Act and had passed orders on 28-11-92. In this order it had been held that the accommodation had been sublet and again a notice for vacating the premises was issued. This was followed by eviction order dated 2-1-93 and on 13-1-93 the premises were broken open and possession taken over by the respondents. In the circumstances the O.A No.2523/92 was disposed of stating that the O.A. has become infructuous in view of the latest developments. However the applicant was given liberty to assail the order dated 28-11-1992 in the proper forum subject to the law of limitation as that has ~~been~~ given a different cause of action to the applicant. This liberty has been made use of by the applicant and this O.A.No.1135/93 has been filed challenging the order of the Estate Officer dated 28-11-1992 and for consequential benefits.

2. The ld. counsel for the applicant mainly relied on the ground that Shri Dhani Ram to whom the accommodation has been sublet was not examined as a witness by the prosecution but I find that this ground has been taken at the stage of arguments and had not been raised as one of the grounds in the O.A., not even in the rejoinder. Apart from this in

the appeal filed by the applicant against the order of the Estate Officer when a number of objections (11 in number) have been taken, ~~but~~ the specific objection regarding Shri Dhani Ram not being called as witness, has not been taken. Proceedings in OA 2523/92 had been going on upto April 1993 and the order was passed on 9-4-93 which mentioned the following:

" A perusal of the order of the Estate Officer shows that the applicant has participated in the proceedings. There is also a mention in the order that on 12-9-92 the applicant stated that he had partially vacated the accommodation and that he will be vacating the quarter by 15-9-1992.

The 1d. counsel for the applicant was repeatedly asked whether he wants to amend the O.A. as all the reliefs he has claimed in para B(a) to (d) have become infuctuous as the proceedings under the aforesaid Act have since ended and the order has been delivered on 28-11-1992..."

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."

Thus the applicant had not chosen to advance this ground at any stage earlier.

2. In the circumstances, raising of this ground at this late stage is not tenable. He then argued that the inquiry had been conducted at the back of the applicant. I am unable to accept this contention and it has already been held in OA No.2523/92 that

the applicant had participated in the proceedings.

A perusal of the Estate Officer's report dated 28-11-92 brings out that the applicant was given more than one chances to produce his defence witness and he did not utilise these chances.

In addition, from the statements of the two prosecution witnesses namely Shri Kishori Lal and Sat Pal attached as annexures to the reply affidavit in OA 2523/92 (copies at pages 48-49 of this O.A), I note that the applicant did not want to cross-examine these two main witnesses. In the face of this it is not possible to accept the contention that the inquiry was held at the back of the applicant.

4. The 1d. counsel for the applicant then laid stress on certain discrepancies in the statements of the two prosecution witnesses. One of them mentioned that one lady and one gentleman came out of the house when they knocked the door while the other witness mentioned that when they knocked the door, one lady came out. Apart from the discrepancy not being ~~the~~ consequential, it is not for the Tribunal to assess the evidence as such. The applicant's counsel then referred to the order passed in O.A. No. 500/92 on 16-11-93 in a more or less similar case. The application in that O.A. had been allowed but the facts are distinguishable in that the Resident Inspector had categorically made a statement that the applicant therein had not sublet the house and he was a victim of some misunderstanding. The guest register was also produced to bring out the so called subtenant ~~who~~ was only a guest. After observing these and other factors in the order it was mentioned that the alleged subtenant had not been examined. Since this was not the main or only ground for allowing that O.A., the orders passed

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therein cannot be extended to this case.

5. The other grounds mentioned in the application were either not pressed or are not germane to the disposal of this O.A.

6. In the circumstances, the O.A. is dismissed.  
No costs.

P.T.T.

(P.T.THIRUVENGADAM)  
Member(A)

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