

(14)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.1684/93

New Delhi, this the 13th day of May, 1994.

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

Shri H.C.Lal son of Shri Mitthan Lal
r/o G-117, Sector IV. Pushp Vihar,
New Delhi-17.

..Applicant

(By Kunwar & Co. Advocates)

Vs.

1. Directorate of Estate,
Nirman Bhawan, NewDelhi.
2. Estate Officer,
Dte. of Estate,
Nirman Bhawan, NewDelhi.
3. Deputy Directorate of
Education, Distt: South,
Defence Colony, New Delhi.
(By Shri PP Khurana, Advocate)

..Respondents.

ORDER

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

This case has been coming up for quite some time but no counter affidavit has been filed inspite of number of opportunities having been given to the respondents. On the final date of hearing, after a number of adjournments, there was no counsel for the respondents but the department was represented by one of the staff. In the circumstances the learned counsel of the applicant was heard. I dispose of this O.A. on the basis of arguments advanced by the ld. counsel of the applicant and the facts and material placed on the file.

2. The applicant was allotted Qr.No.G-117, Sector IV, Pushp Vihar, Saket, New Delhi some time in 1985. On 30-4-87 he was issued an order by the Deputy Director of Estates stating as under:-

"As a result of enquiries made, it has been proved that Shri Hari Charan Lal has not been residing in quarter No.G-117 Pushpvihar allotted to him and has completely sublet the same to some unauthorised person/s in contravention of the provisions

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contained in S.R.317-B-20 of the Allotment Rules.

2. In exercise of the powers delegated to the undersigned vide S.R.317-B-21, it has been decided to declare Shri H.C.Lal ineligible for the Govt. accommodation for a period of 3 years from the date of issue of this memo. The allotment shall stand cancelled in his favour with effect from the date of issue of this memo to the vacation of the quarter or the expiry of a period of 60 days from the date of issue of this memo, whichever is earlier..."

The respondent No.2 started the eviction proceedings and ultimately decided the case ex-parte and issued an eviction order dated 5-3-90. The applicant preferred an appeal against the order of eviction before the Appellate Court and the Appellate Court quashed the order on 25-6-91 and passed the direction to remand the case to respondent No.1. The operative portion of this order issued by the Additional District Judge, Delhi reads as under:-

"In view of the circumstances, I accept the appeal, set aside the impugned order and remand the case back for fresh consideration. The appellant shall appear before the Estate Officer on 25-6-91 when he shall file his written reply or objections with all relevant documents which shall be considered by the Estate Officer, apart from what has been observed above, before passing any orders"

3. It is the case of the applicant that he repeatedly approached respondent No.1 through representations for fixing the date of hearing and for starting the proceedings as per direction of the Appellate Court. The proceedings were going on before the Estate Officer but the other party, namely, Directorate of Estate did not appear before the Estate Officer on most of the occasions. In Annexure 'F' the applicant has given the details of 29 different dates when he was present but the hearing before the Estate Officer could not progress mainly due to the inaction on the part of the Directorate of Estates. Ultimately the Estate Officer passed an order dated 6-7-93 which

which reads as under:-

"Applicant (Directorate of Estates) has filed one application for adjournment. H.Lerd. Counsel for the O.P. has strongly objected for any adjournment. Departmental representative has submitted that some relevant evidence has to be produced in this case and the said evidence is not available. Lerd. Counsel for O.P. has submitted that the case is fixed today for argument and there is no question of producing any evidence or granting any time for filing any evidence. DR has submitted that this is an eviction case filed by the Deptt. and it is in the interest of the Deptt. to get the O.P. evicted as early as possible. But due to circumstances deptt. is forced to take an adjournment and interest of justice requires that time may be given in this case. Lerd. Counsel for O.P. has submitted that he has attended the hearing several times and it is a harassment for him and his client by adjourning this matter again and again. I have gone through the records of the case carefully and heard the submission by the parties. In my view the Estate Officer is a quasi-judicial authority and strict rule of CPC will not apply in this proceedings. Interests of Justice require that full opportunity may be given to the parties to produce their evidence. It is also correct that O.P. has attended several dates in this case. In my opinion interests of justice require that this case may be adjourned sine die. Copy of this order may be supplied to the parties. Liberty is also given to the applicant to revive the case when relevant records are available."

4. This O.A. has been filed with prayer for quashing the cancellation order of 30-4-87 and also the order of the Estate Officer dated 6-7-93.

5. In the grounds advanced in the applicant's case, as to how the charge of subletting cannot be sustained has been elaborated. It has also been mentioned that the case before the Estate Officer was adjourned at least 50 times by the respondents and ultimately the case was reserved for announcing the order. In the order dated 6-7-93, the issue has been left open by giving opportunity to the Director of Estate to revive the case when the relevant evidence is available with him. This is causing unnecessary

harassment to the applicant.

6. This Tribunal cannot go into the charges regarding subletting which is a matter well within the competence of the Estate Officer. The order dated 6-7-93 issued by the Estate Officer has not established anything against the applicant at this stage. No doubt, the other party in the proceedings before the Estate Officer has not been appearing before the Estate Officer regularly. Yet the order dated 6-7-93 adjourning the case sine die is not an order which can be interfered with.

7. Similarly the earlier cancellation order of 30-4-87 issued by Deputy Director of Estates has taken its own course resulting in eviction order of 5-3-90 which was set aside by the Additional District Judge, Delhi on 25-6-91. Hence there is no reason for this Tribunal to interfere by cancelling the order dated 30-4-87.

8. In the circumstances of the case, the O.A. is dismissed as no specific cause of action has arisen. No costs.

P. T. Thiruvengadam

'MALIK'

(P.T. THIRUVENGADAM)
Member (A).