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O.A. No. 528 of 2009
Bisayya ... Applicant
Versus
UOI & Ors. ... Respondents

1. Order dated 6th November, 2009.

C O R A M
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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On being mentioned by the Learned Counsel
for the Applicant this matter is taken up on 06.11.2009.

2. Heard Mr. Mohanty, Learned Counsel for the
Applicant and Mr. S.K.Ojha, Learned Standing Counsel
appearing on notice for the Respondents and perused the
materials placed on record.

3. In this Original Application filed under
section 19 of the A.T. Act, 1985 the Applicant seeks to stay the
order under Annexure-A/6 dated 28.01.2009 as well as the
notice under Annexure-A/10 dated 30.10.2009 till a decision is
taken by the General Manager on the mercy petition preferred
by the Applicant. As an interim measure, she has prayed for
direction to allow her to continue in the Qrs.No.EL/121/2 in
RGDA, Traffic Colony, East Coast Railway, Rayagada.
Annexure-6 series contain the order of the Estate Officer passed
in exercise of the power conferred under sub section (1) of
section 5 of the Public Premises (Eviction of Unauthorized
Occupants) Act, 1971 directing eviction of the applicant from

the quarters in question. Annexure-10 is the document prepared and signed jointly by the Applicant and the evicting authorities authorizing her to vacate the quarters as agreed to by the applicant within a period of seven days. From the above it is clear that the Applicant virtually seeks to stay the order of the Estate Officer passed under the PPE Act and the agreement signed by the applicant to vacate the quarters within seven days. Whether Administrative Tribunal has the jurisdiction to go into the legality of an order passed by the competent authority under the PPE Act, 1971 for eviction of unauthorized occupant of Government quarters/flat came up for consideration before the Hon'ble Apex Court in the case of **Union of India v Sh.Rasila Ram and Others**, reported in 2001(1) ATJ 261. Their Lordships were pleased held as under:

“2.By no stretch of imagination the expression, “any other matter” in Section 3(q)(v) of the Administrative Act would confer jurisdiction on the Tribunal to go into the legality of the order passed by the competent authority under the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. In this view of the matter, the impugned assumption of jurisdiction by the Tribunal over an order passed by the competent authority under the Eviction Act, must be held to be invalid and without jurisdiction.”

4. This apart, it is trite law that where main prayer and interim prayer is same the interim prayer should not be granted at the stage of admission. It is noticed that the main prayer and interim prayer prayed for in this OA are virtually the

same.

5. In view of the above, I am not inclined to entertain and interfere in the matter being without jurisdiction. OA stands dismissed.


(C.R. MOHAPATRA)
MEMBER (ADMN.)