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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 538/87 198
T.A. No.

DATE OF DECISION 21/1/92

SHRI K.M. SUBRAMANIAM, Petitioner

SHRI S. NATARAJAN, Advocate for the Petitioner(s)

Versus

THE COMMANDER, ESTATE OFFICER, BOMBAY, Respondent

SHRI A.I. BHATKAR, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. JUSTICE U.C. SRIVASTAVA, VICE-CHAIRMAN,

The Hon'ble Mr. M.Y. PRIOULKAR, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal? ✓

MGIPRRND-12 CAT/86-3-12-86-15,000.

(U.C. SRIVASTAVA)
V/C.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Original Application No. 538/87.

Shri K.M.Subramaniam.

... Applicant.

V/s.

The Commander,
Bombay Sub Area,
Estate Officer,
Station Headquarters,
Colaba,
Bombay & Anr.

... Respondents.

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman,
Hon'ble Shri M.Y.Priolkar, Member(A).

Appearances:

Applicant by Mr.S.Natarajan.
Respondents by Mr.A.I.Bhatkar.

Oral Judgment:-

Dated: 2.1.1992

(Per Shri Justice U.C.Srivastava, Vice-Chairman)

After eviction against the realisation of Rs.15000/- i.e. difference between licence fee payable during the period April, 1978 and April 1987 as market rent, the applicant was allotted the room in question has approached this Tribunal. During the pendency of the application the applicant expired and his substituted by his legal heirs and representatives.

2. It appears that the premises in question i.e. T-41, Room No.1, Transit Camp, Pilot Bunder Road, Colaba, Bombay - 5, was allotted to the applicant and his family in June 1968. It appears that some surprise check was carried out on 25.2.1986 and found a number of persons were staying and the authorities took it as a case of unauthorised occupants and without taking any proceedings evicted him forcibly and locked the premises.

3. The applicant filed a writ petition before the High Court of Bombay which passed an order that the law should not have been taken by the Army in its own hand and that if the petitioner has committed any breach of the terms and conditions due process should have been followed. It appears that thereafter some proceedings

were taken and the allotment of quarter was cancelled vide order dt. 25.2.1987, For this period respondents have charged market rent and realised from the salary without recording any finding that in fact whether the persons who were found at the time of the surprise check were guests or were unauthorised occupants and paying rent. ~~No such conclusions at the end of the respondents~~ ^{by} ~~without due process of law.~~ could have been arrived at, The respondents have taken ex parte decision without following the provisions of law. As such they had no such right to do so by taking ex parte finding and realising the market rent from the applicant instead of the rent fixed. Accordingly, this is nothing but a case of illegal recovery.

4. Accordingly the application is allowed. The respondents are directed to refund back the difference between the market rent so realised and the actual rent which was payable by the deceased applicant so long as in his possession, to the legal heirs of the applicant, ^{who} ~~which~~ have been substituted to this application, within a period of two months from the date of communication of this order.


(M.Y. PRIOLKAR)
MEMBER(A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN.

B.S.M.