

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 273/96

Transfer Application No.

Date of Decision 1.8.96

Ms.S.H.Rupani.

Petitioner/s

Shri Suresh Kumar

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri V.S.Masurkar,CGSC.


Advocate for
the Respondents

CORAM :

Hon'ble Shri. B.S.Hegde, Member(J)

Hon'ble Shri. -

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?


(B.S.HEGDE)
MEMBER(J).

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH.

1st this day of August 1996.
Original Application No.273/96.

Coram: Hon'ble Shri B.S.Hegde, Member(J).

Ms.S.H.Rupani,
Quarter No.1266/34,
Type - III, Sector - 7,
S.M.Plot,
Antop Hill,
Bombay - 400 037.

... Applicant.

(By Advocate Shri Suresh Kumar)

V/s.

1. Union of India through
director of Estates,
Directorate of Estates,
Nirman Bhavan,
New Delhi - 110 011.
2. Estate Manager,
Old CGO Building Annexe,
101, M.K. Road,
Bombay - 400 020.
3. The Administrative Officer,
Films Division,
Ministry of Information and
Broadcasting,
Govt. of India,
24, Peddar Road,
Bombay - 26.

... Respondents.

(By Advocate Shri V.S.Masurkar,
C.G.S.C.)

O R D E R

(Per Shri B.S.Hegde, Member(J))

In this Original Application the applicant is challenging the eviction order passed under section 5 of the Public Premises Act dt. 8.3.1996 on the ground that the applicant is guilty of subletting her Quarter No.1266/34, Type - C, SM Plot, Antop Hill, Bombay and further cancelling of allotment of the said quarters.

2. In the reply filed by the Respondents it is submitted that the applicant's flat was subjected to a surprise inspection by a team of officers from Directorate of Estates, New Delhi on 29.1.1994 and it was found that some persons other than the allottee were in occupation of the quarter. The inspection report indicates that one Shri Gopakumar, Senior Engineer, Mazagaon Dock Ltd. was found at the time

of inspection, which the allottee herself has admitted at the time of hearing of the subletting proceedings before the Assistant Estate Manager. However, she took a plea that she has submitted the sharing form before the Estate department about intimation of her sharing the accommodation with the said Officer, who was found at the time of inspection. The Respondents submitted that as per Rules mere intimation does not suffice for the purpose. The term sharing means that the allottee will have to stay in the allotted accommodation. But in the instant case from the circumstantial evidence it is proved that the applicant was not staying and on the contrary she has let out the entire accommodation to the said family for her monetary gain. Before the Tribunal, the applicant took a plea that she being a spinster she does not require the ration card and that she goes to visit her relatives and friends on holidays and weekends. The respondents (i.e. 28.1.1994) stated that the date of inspection was a working day and as such she cannot take the benefit of going to her relatives and friends when the inspection was carried out. The applicant cannot take the benefit of sharing unless she is able to prove her stay along with her sharer since in the instant case she failed to prove her stay.

3. It is true that the applicant was allotted Flat No.1266/34, Type-III, SM Plot, Antop Hill, Bombay on 3.9.1992. As stated earlier, the said flat was inspected by a team of Officers from Directorate of Estates, New Delhi on 29.1.1994 and it was found

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that unauthorised persons were in occupation of the said Quarters. The show cause notice was issued on 20.5.1994. It was also directed that in case of her desire to be heard in person, she may appear before the authority on 6.6.1994. The applicant appeared for the hearing on 6.6.1994 and admitted that Shri Gopakumar K.P. & Family were residing in the said premises. The Estate Officer held that it is a clear case of subletting ~~as~~ unauthorised persons were found in the quarter, and hence allotment was cancelled in her name on 5.9.1994 with an opportunity to appeal before the Directorate of Estates, if aggrieved by the order of cancellation. The applicant preferred an appeal which was rejected by the Appellate Authority on 21.6.1995. Since she did not vacate, a show cause notice was issued on 19.1.1996 and she appeared for the hearing and submitted the copies of documents such as C.G.H.S. Card, application for Electrical Registration etc. Her main contention was that she was in occupation of the said premises. On a perusal of the record I find that the Ration Card she adduced before the Estate Officer was issued on 30.12.1994 which is after the date of inspection. Even the Electrical Registration is also after the date of inspection and at the time of inspection she had only C.G.H.S. Card and she did not have any conclusive documentary evidence to prove her stay in the premises. Accordingly the eviction order was passed on 8.3.1996. The applicant had obtained an ex-parte ad-interim relief on 22.3.1996 which has been continued till date.

4. However, the applicant contends that she had sent a sharing application form as far back

as on 9.2.1993 mentioning the names of the alleged unauthorised occupants Shri Gopakumar K.P. and Family, but she has not received any reply of the Respondents so far. The question to be seen here is, even if it is assumed that sharing accommodation is permissible, then the applicant should share the accommodation with the sharer, meaning thereby that the applicant should stay in the accommodation. Nowhere, it is proved that she is staying in the accommodation, but she has subletted the entire quarter to an outsider which is proved during the inspection.

5. In the circumstances, the cancellation order passed by the Estate Officer is found to be just and fair and I do not see any justification in interfering with the order passed by the Estate Officer. Even assuming that the applicant has any grievance, it is open to her to prefer an appeal under Section 9 of the P.P. Act against the order passed by the Estate Officer. Accordingly, I do not find any merit in the O.A. and the same is dismissed. No order as to costs.


(B.S. HEGDE)
MEMBER (J)

B.