

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 449/99

Date of Decision: 17.6.1999

Shri M.G. Venugopalan. Applicant.

Shri R. Asokan Advocate for
Applicant.

Versus

Union of India and others. Respondent(s)

Shri V.S. Masurkar. Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman.

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?

Report
(V.G. Vaidyanatha)
Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PREScot ROAD, MUMBAI :1

Original Application No. 449/99

Thursday the 17th day June 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

M.G. Venugopalan
H-34, Hyderabad Estate,
Napean Sea Road,
Mumbai.

... Applicant.

By Advocate Shri R. Asokan.

V/s.

Union of India through
the Secretary,
Ministry of Urban Affairs
(Directorate of Estates)
Nirman Bhavan,
New Delhi.

The Estate Officer
In the Office of the
Estate Manager,
3rd floor, Old CGO Bldg.,
101 M.K. Road,
Mumbai.

... Respondents.

By Advocate Shri V.S.Masurkar.

O R D E R (ORAL)

(Per Shri Justice R.G, Vaidyanatha, Vice Chairman)

This is an application filed by the applicant challenging the validity of the order of fixing of damage rent and for a direction to the respondents to allot another quarter to the applicant without insisting for the payment of damage rent. The respondents have filed reply opposing the application. I have heard the learned counsel for both sides.

2. At the time of hearing the learned counsel for the applicant submitted that he will not press for prayer (A) in para 8 of the O.A. since he wants to challenge that order of fixation of damage rent before the Appellate Authority under Public Premises (Eviction of Unauthorised Occupants) Act 1971.

But the learned counsel for the applicant presses only relief A(1).

3. Now the applicant wants a direction to the respondents to allot him another quarter to which he is entitled to. The respondents in their reply stated that the applicant's request for another quarter cannot be considered till he pays the damage rent as demanded by the respondents in pursuance of the order dated 20.4.1999.

From the materials on record we find that the applicant was in possession of another quarter at Hyderabad Estate, Bombay which he did not vacate after the extended permissible period. Therefore The Estate Officer has issued an order under Section 7 of Public Premises (Eviction of Unauthorised Occupants) Act 1971 demanding penal rent of Rs. 53,459/-. It appears that now the applicant has been re-transferred to Bombay and now applied for another quarter. The respondents' contention is that unless the applicant pays penal rent he cannot be allotted another quarter.

4. Now the applicant wants to challenge the order of fixation of penal rent before the Competent Authority. Therefore this Tribunal cannot go into that question about the legality or validity of order dated 20.4.1999. It was argued that since the applicant has now been transferred to Bombay, he will be put to great difficulty unless he is allotted another quarter. The learned counsel for the applicant even submitted that applicant's name is at serial No.1 in the waiting list for allotment of quarter at Hyderabad Estate. The learned counsel for the respondents submits that unless the applicant pays

the entire penal rent his request for fresh allotment cannot be considered.

5. After hearing both sides and in view of the submission made by the learned counsel for the applicant that he wants to challenge the order dated 20.4.1999 before the appropriate authority, I feel that suitable direction should be given to safe guard the interest of the applicant and also the administration. On taking instructions the learned counsel for the applicant makes a submission that his client is willing to deposit under protest 50% of the penal rent without prejudice to his right of challenging the impugned order before the Appellate Authority under Public Premises (Eviction of Unauthorised Occupants) Act 1971. The learned counsel for the respondents submitted that the matter is left to the discretion of the Tribunal.

6. After hearing both sides I am disposing of the O.A. by giving suitable directions to the respondents.

7. In the result the O.A. is allowed as follows:

1. The respondents should consider allotment of quarters to the applicant on the basis of his seniority in the waiting list and also consider his claim for allotment of suitable quarter as per his entitlement on the basis of pay and occupation, provided the applicant deposits Rs. 25,000/- towards the penal rent as claimed in the impugned order dated 20.4.1999.

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2. The applicant may deposit the said amount of Rs. 25,000/- under protest and then make a representation to the Estate Officer to make allotment of suitable quarter as per his entitlement.
3. In case the applicant does not challenge the order dated 20.4.1999 before the Appellate Authority or challenge and fails, then he will be liable to pay balance amount of penal rent as demanded in the impugned order dated 20.4.1999, within a period of three months either from today or from the date on which Appellate Authority passes the order, whichever is later.
4. It is made clear that this order is made as an interim arrangement without prejudice to the rights and contentions of both the parties and without prejudice to the right of the applicant to challenge the impugned order dated 20.4.1999 before the Competent Authority.
5. In the circumstances of the case there will be no order as to costs.

DASTI,

Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman

NS