

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 321/2000

DATE OF DECISION: 24/04/2001

Shri R.R.Deshmukh

Applicant

Shri P.A.Prabhakaran

-----Advocate for
Applicant.

Versus

Union of India & 2 Ors.

-----Respondents.

Shri P.M.Pradhan

-----Advocate for
Respondents.

Coram:

Hon'ble Smt. Shanta Shastry, Member (A).

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to
other Benches of the Tribunal?
3. Library.

Shanta ♀

(SHANTA SHAstry)
MEMBER(A)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:321/2000
DATED THE 24th DAY OF APRIL 2001

CORAM:HON'BLE SMT.SHANTA SHAstry, MEMBER(A)

R.R.Deshmukh,
Resident of:
Quarter No.401/C, Sector C,
C.G.S.Colony,
Bhandup, Mumbai-400 042.

Working in the office of
Principal Director of Audit(Central),
Audit Bhavan,
Bandra (East),
Mumbai - 400 051.

As Senior Auditor

... Applicant

By Advocate Shri P.A.Prabhakaran

V/s.

1. Union of India through
The Accountant General (A & E)-I,
Old C.G.O. Building,
101, M.K.Road,
Mumbai - 400 020.
2. Principal Director of Audit(Central),
Audit Bhavan,
Bandra, Mumbai - 400 005.
3. Estate Officer And
Dy Accountant General/Admn,
Office of the Accountant General(A&E)-I,
101, M.K.Road, Mumbai - 400 020. ... Respondents

By Advocate Shri P.M.Pradhan

(ORDER)

Per Smt.Shanta Shastry, Member(A)

The applicant has filed this OA against the orders of the respondents dated 14/1/2000 whereby the allotment of quarter no.401/C, Sector C, C.G.S.Colony, Bhandup, Mumbai has been cancelled in his name w.e.f. vacation of quarter or expiry of 60

...2.

days from the date of issue of memo whichever is earlier. Further, he is charged 10 times the normal licence fee and is liable to pay damages at Market ~~rate~~ w.e.f. 60 days from the date of issue of memorandum and also separate disciplinary action may be taken against the applicant.

2. The brief facts are that the applicant is working in the Office of Respondent No.2 under the Respondent No.1 i.e. Controller and Auditor General of India. The applicant was allotted quarter No.401/C, sector-C sometime in October, 98. In early November,99 one Shri Santoshkumar Patr~~ra~~ao whom the applicant claims to be a friend, was accommodated by the applicant in his house as the friend had to write the CA examination. He had asked the applicant to accommodate him for less than two months in October and November till end of examination. When ^{he} was to go back to Behrampur, Orissa in the second fortnight of November, due to cyclone many parts of Orissa were devastated, the applicant's friend suffered heavily and therefore he wanted to remain in Mumbai for two more months. In the meantime, during October,99 the Estate Officer visited the applicant's house and noticed the presence of his Guest, Shri Patr~~ra~~ao. Thereafter, the memo was issued to the applicant on 22/10/99 alleging partial sub letting, warning him and directing him to remove the family guest ^{ing} ~~alleged~~ unauthorised presence. The applicant replied to the memo denying any act of subletting, he explained the position vide his reply dated 19/11/99. He also sought permission of the respondents to allow his guest to continue to stay for a month or two in Mumbai due to the losses suffered in Cyclone in Orissa.

By letter dated 9/12/99, Respondent No.3 refused permission and directed the applicant to remove his guest within seven days.

3. The applicant submits that his friend shifted to another common friend on 13/12/99 and continued there till 29/12/99. However, on 24/12/99, Assistant Accounts Officer, from the respondents office visited the applicant's quarters again. At that time, the applicant had invited a relative for lunch who happened to be there in the applicant's house. The Assistant Accounts Officer mistook the visiting relative to be Shri Patrrao, applicant's friend inspite of explaining the position. The matter was reported by the Assistant Accounts Officer. As a result the impugned memo dated 14/1/2000 came to be issued. The applicant represented against the memorandum on 18/2/2000. The same was rejected. Thereafter, directions were issued to initiate eviction proceedings against the applicant and to levy damages at market rent at Rs.4551/- per month w.e.f. 14/3/2000. The applicant made a second appeal on 22/3/2000 which also came to be rejected through letter dated 1/5/2000 of respondent No.3. Thereafter, a notice under section ~~5(2)~~ under Public Premises, ~~Eviction of Unauthorised Occupants~~ Act 1971 was issued by Respondent No.3 in her capacity as Estate Officer on 11/4/2000. Applicant states that he appeared before the Estate Officer on 25/4/2000. No further action was taken.

4. The respondents submit that the action taken by the respondents is quite in order as the Estate Officer herself had visited the applicant's house on 12/10/99 and had found Shri Patrrao, the applicant's friend being present in the house. She

also found that there were two kitchens in operation on the date of her visit. It was also noticed that the wife of the applicant was taking private classes in the aforesaid quarter and a Bord Adarsh Classes had been fixed outside the quarter. That the applicant had accommodated a friend of his without informing or taking prior permission of his superior officers was very well established through the second visit on behalf of the respondents to the house of the applicant. Therefore action was initiated against the applicant by cancelling the allotment of the quarter vide Impugned order dated 14/1/2000.

5. The respondents have further taken the plea that since a notice was issued to the applicant under section-4 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971, the Tribunal has no jurisdiction to interfere in this matter. In view of the judgement of the Supreme Court in the case of Rasila Ram 2000(2)SC SLJ 429.

6. I have heard the learned counsel for both sides and have perused all the records. The respondents were also directed to produce the relevant material regarding the inspection report, etc in this matter. The same was produced and I have gone through the relevant report. The respondents according to me have clearly established that the applicant's friend Shri Patrrao was staying with the applicant unauthorisedly and had not vacated the place even after being warned to do so. I therefore cannot find any fault with the action of the respondents. Whatever the

:5:

merits of the case, As I find that a notice\$ has already been issued under the Public Premises, (Eviction of Unauthorised Occupants Act,) 1971, this Court has no jurisdiction to go into this matter any more. Therefore I dismiss the OA for want of jurisdiction^{and} also vacate the interim order dated 4/5/2000. I do not order any costs.

Shanta S-
(SHANTA SHAstry)
MEMBER(A)

abp