

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 44/2000

Thursday, this the 19th day of April, 2001

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

S.N. Kelshikar,  
Retired Chargeman,  
W. Railway,  
Quarter No.100/14,  
Matunga Road (E),  
MUMBAI - 400 019. ... Applicant.  
(By Advocate Shri H A Sawant)

Vs.

1. The Chief Works Manager,  
Western Railway Workshop,  
Lower Parel, N.M.Joshi Marg,  
Mumbai - 400 013.
2. The Divisional Railway Manager,  
Divisional Office Mumbai Division,  
Mumbai Central,  
Mumbai - 400 008.
3. The Union of India, acting through  
General Manager, Western Railway,  
Head Quarters Office, Churchgate,  
Mumbai - 400 020. ... Respondents.  
(By Advocate Shri V.S. Masurkar)

: O R D E R (ORAL) :

{Per Smt. Shanta Shastry, Member (A)}

The applicant in this case, is challenging the order of the Chief Works Manager dt. 6.2.1996 by which the application of the applicant to regularise the Railway accommodation in his name has been rejected.

2. The applicant is working as Assistant Station Master under the Railways in Mumbai since 1991. He was sharing the accommodation, Railway Quarter No.100/14 in the Railway Colony, Matunga Road, Mumbai allotted to his father who superannuated on 31.3.1995. The applicant requested the Railway Authorities to transfer the aforesaid Railway quarter in his name and regularise

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the accommodation on father to son basis. The matter was processed. Accordingly, applicant was granted permission on condition of paying <sup>baal</sup> the HRA from 1991 onwards for sharing the accommodation with his father. Thereafter, however, the Respondents initiated action against the applicant's father for eviction by PPE Case No.39/96 before the Estate Officer. The Estate Officer ruled in favour of the applicant and directed that the quarter allotted to his father may be transferred in the applicant's name and be regularised. However, the Respondents went in appeal against the order of the Estate Officer in the City Civil Court by filing Misc. Appeal No.92/97. The City Civil Court has passed the Judgment on 1.12.2000 remanding the matter to the Estate Officer for deciding the application in accordance with law. The Learned Counsel for the applicant submits that this will take considerable time and the Estate Officer has not been appointed for the purpose of hearing the case so far and this is coming in the way of release of his Gratuity and Railway Passes.

3. Once action of eviction proceedings have been initiated under the Public Premises(Eviction of Unauthorised Occupants)Act, 1971, this Court does not have any jurisdiction in the matter. This has been clearly ruled out in the case of Shri Rasila Ram & Ors. Vs. Union of India {JT 2000 (10) SC 503}. In the operative portion, the Apex Court held that "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". The applicant insists that he is not in unauthorised occupation. However, this matter is to be decided under the Public Premises Act, as action has already been taken under the P.P. Act earlier. For want of jurisdiction, therefore, I am unable to consider the present OA. Accordingly, the OA is dismissed. No costs.

*Shanta S-*  
(SHANTA SHAstry)  
MEMBER(A)

B.