

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: _____

722/94

~~Transfer Application No~~

DATE OF DECISION: 29.7.94

Shri L.T. Jadhav

Petitioner

Shri R.R. Dalvi

Advocate for the Petitioners

Versus

The Estate Manager, Bombay
and others.

Respondent

Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri

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

B.S. Hegde
(B.S. Hegde)
Member (J)

Re

4/8

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 722/94

Shri L.T. Jadhav

... Applicant.

V/s.

Estate Manager,
Government of India Estates,
Old Central Govt. Offices
Building, Annexe,
101 M.K. Road, Churchgate
Bombay.

Director of Estates,
Ministry of Urban Development,
Nirman Bhavan, New Delhi.

Secretary to the Govt.
of India,
Ministry of Urban Development,
Nirman Bhavan, New Delhi.

... Respondents.

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

Appearance:

Shri R.R. Dalvi, counsel
for the applicant.

ORAL JUDGEMENT

Dated: 29.7.94

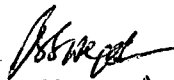
{ Per Shri B.S. Hegde, Member (J) }

In the O.A. the applicant has prayed for the reliefs that the impugned notice for recovery of damage rent to the tune of Rs. 38950/- be set aside as arbitrary and illegal in view of this Bench judgement cited in para 5, for the entire period from 1.12.1991 to the date of actual vacation of the premises on 19.2.1994. In this connection eviction order was passed on 18.11.92 directing the applicant to hand over the quarter. Against which he filed an appeal under section 9 of Public Premises Act in City Civil Court, Bombay, The Principal Judge vide order dated 4.12.92 observed that the order of the Estate Office does not warrant any interference. Hence, appeal is dismissed, however so far as the Appellant is concerned, taking into consideration the fact that the Appellant is ill and requires medical treatment the Appellant is granted time till 30.6.1993 to vacate the suit premises.

The Appellant who is present in the Court gave an undertaking to the effect that he will vacate the premises by 30.6.93, failing which the respondents is entitled to execute the order and take possession. He did not vacate the quarter on 30.6.93 as per his undertaking. Again, he filed an appeal before the City Civil Court, Bombay under section 9 of the Public Premises Act. The Principal Judge vide order dated 2.2.94 passed the following order.

" So far as this appeal is concerned, this appeal is not maintainable and deserves to be dismissed, in as much as the appellant has already been granted time to vacate the premises. He was granted time till 30th June, 1993 to vacate the quarter. However, despite of having given an undertaking, the appellant has not cared to vacate the quarters and has filed these proceedings with a view to further delay, in handing over the possession of the Enquiry premises. So far as the appellant is concerned, in view of the fact that the structures are in a dilapidated condition, and all the other occupants have vacated, so far as the appellant is concerned, no further indulgence is required to be granted to him. The appellant to vacate the premises within a week from today, failing which the respondents will be in a position to execute the order of eviction. So far as the question of damages is concerned, there is no order before me under Section 7, hence, on that aspect this court is not in a position to pass any order. Hence, so far as the appeal is concerned, the appeal stands dismissed. Appellant to hand over the possession of the premises by 19th February, 1994.

In the light of the above, I am of the view, that there is no merit in the OA and the question of quashing the impugned order dated relying upon the Courts judgement in Dominic James Vs. Station Commander (1992) 21 ATC 735 Bombay does not have any relevancy, as the Court has not passed any order not to recover damage rent. Hence the same is not applicable to the facts of this case. Accordingly I do not see any merit to interfere in the departments direction for recovery of concessional rate from 1.12.91 till the actual vacation on 19.2.94. The OA is accordingly dismissed but no order as to costs.


(B.S. Hegde)
Member (J)

NS