

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 345/98

Date of Decision: 30.7.98

Smt. M.D. Kamble Applicant.

Shri Suresh Kumar 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?

R.G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, BOMBAY:1

Original Application No. 345/98

Thursday the 30th day of July 1998.

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

Smt. M.D. Kamble
No.2 Sample Room ID
DGOA Complex, LBS Marg.
Vikhroli (W), Mumbai.

... Applicant.

By Advocate Shri Suresh Kumar.

V/s.

Union of India through
Directorate of Estates
Nirman Bhavan, New Delhi

The Estate Manager
O/O the Estate Manager,
Old CGO Building Annexe,
3rd floor, 101 M.K. Road,
Bombay.

The Senior Quality Assurance
Establishment Vehicle
Officer, I.G. Stores (W.I.)
D.G.O.A. Complex,
Vikhroli
L.B.S. Marg, Bombay.

... Respondents.

By Advocate Shri V.S. Masurkar.

O R D E R (ORAL)

¶ Per Shri Justice R.G. Vaidyanatha, Vice Chairman ¶

In this O.A. the applicant is challenging
the notice dated 12.2.98 issued by respondent No.2.
Respondent No.1 and 2 have filed their reply. We do
not know whether notice have been served on respondent
No.3 or not. No doubt the claim in the O.A. is only
regarding the notice issued by respondent No.2.
I have heard the learned counsel for the applicant
and respondent No. 1 and 2.

....2...!

2. Admittedly the applicant was residing at Quarter No.1/12 Type-2, Ghatkopar. The respondent No. 2 has initiated the proceedings against the applicant on the allegation that he has subletted the premises. It is also brought on record that subsequently the eviction proceedings were initiated against the applicant before the Estate Officer under the P.P. Act 1971. The matter was remanded to the Estate Officer. It is also seen that the Estate Officer has subsequently passed the order of eviction against the applicant as per order dated 25.7.96. But according to the applicant ^{and} it is also not disputed that the applicant has vacated the quarter on 16.4.96.

3. Now the 2nd respondent has issued the impugned show cause notice dated 12.2.98 demanding penal rent of Rs. 1,50,168/- from the applicant, for the period from 17.5.96 to 16.4.96.

The applicant has challenged the correctness and legality of the notice.

4. After hearing both sides I find that the impugned show cause notice has not been issued after giving an opportunity to the applicant. In the present notice dated 12.2.98 the applicant has been called upon to pay the said amount. It is ^{not Precedent} considered that the show cause notice to the applicant calling upon him to show cause about the claim regarding the damage rent for the above period. There is violation



of Principle of Natural Justice since the applicant has not been given hearing before fixing the amount under the impugned notice.

5. It is open to the respondents to fix the amount of damage rent as permissible under the service rule or they may approach the Estate Officer under Section 7 of the P.P. Act to determine the penal rent. The respondents can take whatever action that is permissible according to law. The applicant may be given show cause notice about the claim of penal rent both regarding quantum and period for which it is claimed. Then the applicant must be given an opportunity of explaining both regarding the quantum of penal rent and the period. Then after hearing the applicant either the respondent or the Estate Officer, under P.P. Act may pass appropriate orders according to law. Liberty is given to the applicant to give his representation to the demand made by the respondents regarding the quantum of penal rent and the period. All contentions of merits are left open.

6. In the result the O.A. is partly allowed. The impugned notice dated 12.2.98 is quashed giving liberty to the respondents to pass appropriate orders either under the Service Rules or under the P.P. Act as permissible under the law to determine the penal rent and the period after giving an opportunity to the applicant being heard in the matter. In the circumstances of the case there will be no order as to costs.

R. G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman