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**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

LIBRARY

No. M.A. 350/00325/2014
O.A. 1359 of 2013

Date of order: 16.11.2016

Present : Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

MANOJ PAUL

VS.

UNION OF INDIA & ORS. (S.E. Railway)

For the Applicant : Mr. A. Chakraborty, Counsel

For the Respondents : Mr. A.K. Dutta, Counsel

O R D E R (Oral)

Per Hon'ble Justice Shri Vishnu Chandra Gupta, Judicial Member:

We have heard the Ld. Counsel for the applicant and Ld. Counsel for the respondents.

2. The applicant who was posted in Adra Division as Cashier at Cash & Pay Office, S.E. Railway, Adra and has been transferred to Kharagpur on promotion. It has been contended that at Adra one Railway quarter was allotted to the applicant but the key and possession has not been given to him. As such, he was not in physical possession of the Railway quarter at any point of time. However, the respondents have been deducting the rent in respect of the said Railway quarter from the salary of the applicant @ Rs. 1,256/- per month since December, 2010. It has been contended by the applicant on several occasions requesting the respondents not to deduct the said amount as he never took physical possession of the said quarter.

3. The record of the reply reveals that on 25.4.2011 while the applicant was working at Adra Division issued a letter to Sr. Divisional Finance Manager, S.E. Railway, Adra (Annexure A-2) for surrendering of the said

(Signature)

Railway quarter bearing No. A/15/B stating all the facts and circumstances.

A perusal of the Annexure A-2 clearly reveals that the applicant has categorically stated therein that the quarter was allotted to him and he took occupation of the said Railway quarter from SE (W) East/Adra without taking any electrical fittings and connection. It is not in dispute that he made another application on 4.6.2011 to respondent No. 4 alleging that he is surrendering the possession of the said quarter. Annexure 'A-3' is a letter dated 4.6.2011 which contains that Smt. Sutapa Paul is his wife and is in occupation of the quarter. A case is pending in between him and Sutapa Paul with regard to matrimonial dispute and case has been registered U/S 498 A, 307, 313 IPC and case U/S 125 Cr. PC.

4. It is not in dispute that the applicant has not surrendered the possession of the quarter after vacating the same. Later on he raised protest that once he has been transferred to Kharagpur on promotion the Railway authorities are not entitled to recover any rent from the applicant because the applicant is not entitled to retain the quarter at Adra.

5. The reply has been filed by the respondents alleging therein that the quarter was allotted; possession of the same has been handed over to the applicant which has not yet been vacated and, as such, there is no occasion for the respondents to say that he is not in possession. It is wrong to say that possession has been taken with connivance with his wife and the Railway authorities. It is not disputed at bar that eviction proceedings has been initiated against the applicant by the Estate Officer and proceedings have attained the final conclusion and eviction order has been passed which has not been assailed by the applicant. The case of the applicant is that the Estate Officer may direct to take possession of the quarter by resorting to the course of law. As the applicant is not in

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possession of the said quarter, his wife is occupying the quarter so he may be relieved of the responsibility of making the payment.

6. We have considered the submission of both the parties and we are of the view that unless the order of eviction is implemented the liability to pay the rent and damages would be upon the applicant. Unless the applicant himself hands over vacant possession to the Railway administration he would be under legal obligation to make payment of rent and damages as admittedly his wife is residing therein.

7. With this observation, the Original Application is dismissed. No costs.

(Jaya Das Gupta)
Administrative Member

(Vishnu Chandra Gupta)
Judicial Member

SP