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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7279/2015

% *Judgment dated 4th August, 2015*

DELHI DEVELOPMENT AUTHORITY Petitioner

Through : Mr. Rajiv Bansal, Senior Standing
Counsel with Mr. Arush Bhandari,
Advocate

versus

ARUN MISHRA Respondent

Through : Mr.A.K. Behera with Mr. Chaitaya Sahu,
Advocates

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by the Delhi Development Authority (hereinafter referred to for short as “DDA”) being aggrieved by the order dated 09.07.2015 passed by the Central Administrative Tribunal (hereinafter referred to for short as “CAT”) and subsequent order by which the interim order granted on 9.7.2015 has been continued.
2. Learned counsel for the petitioner submits that the Tribunal has failed to consider that the OA filed by the respondent herein is not maintainable in view of the settled position of law as decided by the Supreme Court of India in the case of *Union of India v. Rasila Ram & Ors.*, reported at (2001) 10 SCC 623 and Division Bench judgments of this Court in the case

of *Smt. Babli & Anr. v. Govt. of NCT of Delhi & Ors.*, reported at 95(2002) DLT 144(DB) and *UOI & Ors. v. Dr. Jagdish Saran*, 2005(84) DRJ 690(DB) and the order passed by the Tribunal itself.

3. It is pointed out that the respondent was working with the DDA as a deputationist. The period of deputation came to an end on 30.06.2014. As the respondent did not vacate the official accommodation, proceedings under the Public Premises (Eviction of Occupants) Act, 1971(hereinafter referred to for short as “PP Act”) were initiated. Notice was issued to the respondent under the PP Act. Reply was filed and thereafter a final order of vacation of the accommodation was passed.
4. Counsel for the DDA submits that the CAT would have no jurisdiction with regard to either proceedings which were initiated against the respondent under the PP Act or with regard to the rejection of request by the respondent for inter pool transfer of accommodation.
5. A strong grievance has been made by counsel for DDA that while granting stay of the order passed by the Estate Office, no reference has been made by the Tribunal in the order dated 09.07.2015 with regard to the fact that this order was passed by the Estate Office in proceedings initiated under the PP Act. Additionally, it is submitted that the question with regard to over stay in a Government accommodation cannot be a subject matter of proceedings before the Tribunal.
6. We have heard counsel for the parties and considered their rival submissions. The respondent had made a request for inter pool transfer as another accommodation was occupied by an officer working for DDA which accommodation was in the pool of MCD, Delhi and pool transfer is permissible as per the Circular dated 09.11.1993.

7. We find it rather strange that the CAT has stayed the order passed by the Estate Officer under the PP Act, against which an appeal lies to the District Judge.
 8. As far as the first issue is concerned, the order with regard to stay of the order passed by the Estate Office as agreed by counsel for the respondent is vacated. The respondent seeks time to seek appropriate remedy within a period of two weeks from today. As far as second issue is concerned, we request the CAT to decide the preliminary issue with regard to the maintainability of OA on 21.08.2015 (date of 6.8.2015 stands cancelled, as jointly prayed) while taking into account the judgments passed by the Hon'ble Supreme Court of India, the Division Bench of this Court and the earlier judgment of CAT itself.
 9. Accordingly, the interim order with respect to the order passed by the Estate Office dated 26.06.2015 is vacated, however, the respondent is granted two weeks time to assail the order. No coercive action shall be taken for two weeks from today.
 10. With these observations, the writ petition is disposed of.
- CM.APPL13354/2015(stay)**
11. In view of the order passed in the writ petition, the application stands disposed of accordingly.
 12. DASTI under the signature of Court Master to counsel for the parties.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 04, 2015 pst /