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

+ **W.P.(C) 3536/2018 and CM APPL. 13966-67/2018**

SURENDER AHLAWAT & ANR Petitioners
Through: Mr. Ravi Kumar, Advocate

versus

**UNION OF INDIA THROUGH MINISTRY OF SOCIAL JUSTICE
& EMPOWERMENT & ORS** Respondents
Through: Mr. Sanjeev Narula, CGSC with
Ms. Anumita Chandra, Advocate

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER
% **11.04.2018**

1. At the outset, counsel for the petitioners has been called upon to explain as to why has the petitioner No.2 been impleaded in the present petition when she was not a party before the Tribunal. Further, he has been asked to explain as to how would prayer (iv) seeking stay of the eviction proceedings against the petitioners in respect of a government accommodation allotted to late Shri Dharam Pal, lie before this Court when it was not a subject matter of adjudication before the Tribunal in O.A. No.1742/2017.

2. Counsel for the petitioners has no explanation to offer. Instead, he seeks to refer to the order dated 10.01.2018, passed by the learned Single Judge of this Court in W.P.(C) 255/2018.

3. In W.P.(C) 255/2018, the petitioners herein had sought an expeditious disposal of O.A. No.1742/2017, which at that point in time, was pending consideration before the Central Administrative Tribunal. It is noteworthy that any interim order/final order passed by the Tribunal, is liable to be challenged before a Division Bench. Despite the same, the petitioners had filed the aforesaid misconceived petition, which was disposed of by the learned Single Judge vide order dated 10.01.2018.

4. Prior thereto, the petitioners had filed W.P.(C) 8920/2017 before the learned Single Judge of this Court praying inter alia for quashing/setting aside an order dated 19.09.2017, passed by the learned District & Sessions Judge, being the Appellate Authority under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, whereunder they had assailed an order dated 07.04.2016 passed by the Estate Officer under Section 5 of the Act, directing them to vacate the government quarter No.0563, Laxmi Bai Nagar, New Delhi.

5. Vide order dated 10.10.2017, the learned Single Judge had disposed of the writ petition on a plea taken by the petitioners that they may be granted some reasonable time to vacate the government accommodation. On the petitioner No.1 herein, giving an undertaking to the Court that he and his family shall hand over vacant peaceful possession of the subject premises on or before 15.04.2018, the Court had restrained the respondents from carrying out the eviction proceedings against them, till the said date. It was however made clear at that time that if the petitioners fail to hand over vacant peaceful possession of the government quarter on or before the cut off date, then the respondents would be at liberty to take over possession and initiate proceedings against them for violation of the undertaking.

6. After exhausting the entire period granted to them in terms of the undertaking given before the learned Single Judge and recorded in the order dated 10.10.2017, we are given to understand that the petitioners have proceeded to file an LPA, which is listed today before a Co-ordinate Bench.

7. Despite taking independent relief against the order dated 10.10.2017 passed in WP (C) No. 8920/2017, which is nothing but a consent order, the petitioners have filed the present petition for seeking, amongst others, directions to restrain the respondents from evicting them from the staff quarter in question. We decline to entertain the relief at prayer (iv), which is struck off. Further, the name of the petitioner No.2 is also directed to be struck off from memo of parties as she was not a party before the Tribunal.

8. Coming to the remaining reliefs prayed for in the present petition, the petitioner is aggrieved by an order dated 18.05.2017 passed by the Central Administrative Tribunal, disposing of his Original Application for seeking compassionate appointment on the ground that his father, Shri Dharam Pal, who was working as a UDC with the respondent No.1 and had died in harness on 19.12.2013.

9. Counsel for the petitioner had stated before the Tribunal that he would be satisfied if a time bound direction is issued to the respondent No.1 to reply to his application dated 29.03.2017 and enclosed with the O.A. (Page 72-73). In view of the said submission vide order dated 18.05.2017, the Tribunal had disposed of the O.A. at the stage of admission itself with directions issued to the respondents to consider the petitioner's case in terms of the extant guidelines for compassionate appointment and reply to his letter dated 29.03.2017.

10. The respondents had duly complied with the aforesaid order passed by

the Tribunal and had furnished a reply to the petitioner on 19.07.2017, stating inter alia that his case had been duly examined but no vacancy was available in the Ministry in Group C post and as and when a vacancy arises, the Committee constituted for considering the request for appointment on compassionate grounds shall scrutinise all the applications including that of the petitioner and make its recommendations to the Competent Authority, who would take a decision in this regard. This being the position, we have enquired from the counsel for the petitioner as to how the present petition is maintainable.

11. In reply, counsel for the petitioner states that he has already filed a contempt petition against the respondents alleging non-compliance of the order dated 18.05.2017, which is listed before the Tribunal today.

12. Ideally, we ought to dismiss the present petition with exemplary costs as the same is nothing but a gross abuse of the process of the Court. However, in the interest of justice, we are refraining from doing so.

13. The present petition is dismissed in *limine* as meritless, alongwith the pending applications.

HIMA KOHLI, J

PRATIBHA RANI, J

APRIL 11, 2018

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