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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 9845/2018 & CM No.38364/2018 (for stay)
VIJENDER SINGH Petitioner

Through: Ms. Hardeep Kaur, Adv.

Versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Rajesh Gogna & Mr. A. Kumar,
Adv. for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **10.10.2018**

1. This petition under Articles 226 and 227 of the Constitution of India impugns the order [dated 17th July, 2018 in PP Appeal No.06/2018 (CNR No.DLCT01-005007-2018) of the Court of District Judge (Headquarters), acting as an Appellate Officer under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (PP Act)] of dismissal of appeal preferred by the petitioner against the order dated 3rd February, 2017 of the Directorate of Estates, Government of India of cancellation of allotment of Quarter No.0473, Block-Z, Timarpur, New Delhi allotted to the petitioner by virtue of his employment with the Government of India on the ground of subletting by the petitioner of the said quarter, as well as the subsequent order dated 14th March, 2018 of the Estate Officer, Government of India in exercise of powers under Section 5 of the Act, of eviction of the petitioner from the said quarter.

2. The petitioner neither filed any reply to the notice under Section 4 of the PP Act issued by the Estate Officer nor appeared before the Estate

Officer inspite of opportunity having been given. The Estate Officer thus held that the petitioner had failed to prove that the ground on which allotment had been cancelled was wrong or that the persons found in the quarter at the time of surprise inspection thereof were his family members.

3. The District Judge has dismissed the appeal preferred by the petitioner, reasoning that (i) as per record, at the time of inspection, one Rakesh working as a clerk of some advocate in Karkardooma Courts and his wife who is herself an advocate, were found occupying the quarter and neither the petitioner nor any of his family members were found in the quarter; (ii) though the said Rakesh initially informed the members of the inspection team that he was the son of the petitioner but could not produce any document in this regard; (iii) the said Rakesh then informed the members of the inspection team that he was paying rent of Rs.7,000/- per month to the petitioner; (iv) the petitioner did not file any reply or other documents before the Estate Officer also and did not appear inspite of service of notice of hearing; and, (v) since the petitioner had failed to show anything in appeal also, to prove that Rakesh and his wife found in the premises were relatives of the petitioner, no case for interfering with the order of the Estate Officer was made out.

4. This petition came up first before this Court on 18th September, 2018 when the counsel for the petitioner, under instructions from the petitioner stated that Rakesh and his wife who are working in the Courts as court clerk and advocate respectively, will be produced in one or two days. Accordingly, the hearing was adjourned to 20th September, 2018. On 20th September, 2018, it was stated that the wife of Rakesh was unwell and both of them will

be able to appear after one week. Accordingly, the hearing was adjourned to today.

5. Today, Ms. Hardeep Kaur, Advocate appearing for the petitioner states that wife of Rakesh has undergone an operation and thus Rakesh and his wife have both not appeared. She states that summons be issued to the said Rakesh and his wife. Alternatively, it is stated that commission be issued to see who is in possession of the premises.

6. Admittedly Rakesh and his wife were found in the premises. The petitioner, neither before the Directorate of Estates nor before the Estate Officer nor before the District Judge has been able to explain the presence of the said Rakesh and his wife and / or explain the absence of himself and his family members from the quarter. It is not for this Court to commence an investigation. The onus was on the petitioner to prove that the persons found in the quarter allotted to the petitioner were not sublettees and which the petitioner has failed to discharge inspite of opportunity before Directorate of Estate, Estate Officer, District Judge and before this Court as well.

7. No other argument has been urged.

8. No ground to interfere with the order of the District Judge acting as an Appellate Officer under Section 9 of the PP Act, especially in exercise of powers under Article 227, is made out.

Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

OCTOBER 10, 2018/‘gsr’..

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