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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 15.04.2019

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W.P.(C) 3879/2019

REHAMTULLAH

..... Petitioner

Through Ms.Pratima K.Gupta with Mr.Arvind
Kumar Gupta, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondent

Through Ms.Biji Rajesh, Adv for Mr.Gaurang
Kanth, CGSC with Mr.Harvesh Panwas,
Asst.Director.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J (ORAL)

C.M.No.17592/2019

Exemption allowed, subject to all just exceptions.

C.M.No.17590/2019

The present application has been filed by the petitioner seeking
permission to place on record additional facts and documents.

For the reasons stated in the application, the same is allowed.

The application stands disposed of.

W.P.(C) 3879/2019 & C.M.No.17591/2019

1. Vide the present petition, the petitioner assails the order dated 13.02.2019 passed by the Central Administrative Tribunal, New Delhi in O.A.No.4647/2015. The Tribunal has rejected the said original application preferred by the petitioner. In the original application, the petitioner had assailed the demand raised upon him on account of the penal rent due as a consequence of his continued occupation of the Type II quarter allotted to him under the General Pool

Accommodation, to which he was not entitled after his office shifted to Noida.

2. The petitioner, while in service with the Ministry of Shipping, was allotted one Type II quarter on 31.03.1989 under the General Pool Accommodation in Delhi. The petitioner's office was shifted to Noida on 12.08.1999. On 15.09.1999, a notification was issued that the erstwhile staff of the shifted office was not entitled to General Pool Accommodation in Delhi and, therefore, the petitioner was no longer entitled to retain the aforesaid Type II accommodation allotted to him under the General Pool Accommodation in Delhi.

3. Despite the aforesaid being the position, the petitioner did not vacate the premises and hung on to the same. The proceedings under the Public Premises Act (Eviction of Unauthorised Occupants) Act, were, therefore, initiated against him and an eviction order was passed on 19.06.2001. The petitioner was, however, stubborn and assailed the said order before the learned District Judge, who dismissed his appeal on 01.09.2001. The petitioner still did not vacate the premises and preferred an original application before the Tribunal, which was dismissed as not maintainable. The petitioner then preferred W.P.(C)No.6228/2001 before this Court and obtained a restraint order against his dispossession from the quarter. Eventually, the writ petition was dismissed on 09.12.2010. He, however, continued to remain in the occupation of the quarter during this period, obviously entirely at his own peril.

4. On 04.08.2014, recoveries were notified against the petitioner on account of his unauthorized occupation. He made a representation,

which was rejected. He then preferred an original application before the Tribunal at Allahabad, i.e., OA.No.330-01638/2014, which was dismissed on 12.12.2014 for want of territorial jurisdiction. He then approached the Allahabad High Court by preferring Writ-A No.7276/2015, which was also dismissed on 11.02.2015.

5. The petitioner finally vacated the quarter only on 01.04.2015, i.e., nearly 16 years after he was informed that he was not entitled to retain the said General Pool Accommodation in Delhi. The petitioner's request to stop recoveries against him were forwarded to the Directorate of Estate, who is the custodian of the General Pool Accommodation in Delhi. The said request was turned down vide order dated 04.12.2015 and consequently a demand of Rs.12,74,761/- was raised against the petitioner for his unauthorised occupation of the Type II government accommodation in Delhi for the period between 10.12.1999 to 21.04.2015. He again approached the Tribunal by preferring the aforesaid original application, which the Tribunal has rejected.

6. The submission of the learned counsel for the petitioner is that since the petitioner was allowed to occupy the said quarter under the protection of the Court's order, no recovery could be made from him, particularly, when he had not drawn the Home Rent Allowance (HRA) and had also deposited the licence fee for the quarter during the said period. We do not find merit in this submission. Obviously, the petitioner could not have occupied the said quarter without paying the licence fee and although he had not been drawing the HRA, that by itself does not regularise his continued occupation of the said

accommodation, since he was not entitled to retain the same after the shifting of his office to Noida.

7. If the aforesaid submission of the petitioner is accepted, every government servant who does not wish to vacate his government accommodation despite not being entitled to retain the same, would simply pay the licence fee and not claim HRA and on that basis claim that no damages could be claimed from him. The Central Pool Government Accommodation in Delhi is meant only for those government servants who are serving in Delhi. The petitioner had no business to retain the government accommodation in Delhi once his place of working shifted to Noida and that too when he had repeatedly been asked to vacate the same.

8. The aforesaid facts shows that the petitioner was tenacious and preferred one litigation after another to somehow stake his claim to the said government accommodation, despite not being entitled to do so.

9. In these circumstances, we do not find any infirmity in the impugned order.

10. The petition stands dismissed in the above terms alongwith the pending application.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 15, 2019/sr