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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3236/2023 & CM APPL. 12614/2023 (for interim relief)**

REKHAPetitioner

Through: None

Versus

UNION OF INDIA AND ORSRespondents

Through: Mrs. Avnish Singh, SPC with Mr. Gokul Sharma, GP, Mr. Mahendra Vikram Singh, Mr. Vishal Kr. Yadav, Ms. Kanchan Kumari, Advocates

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
23.09.2024

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1. The present petition impugns communications dated 3rd March, 2023 and 7th March, 2023 whereby the Respondents have directed Petitioner to vacate the allotted premises, being Quarter No. P-5/5 Kingsway Camp (Type-II), MES Colony, Probyn Road, Timarpur, Delhi – 110054¹, as well as to clear the rent and electricity dues.
2. Petitioner asserted that she is the wife of Late Sh. Prakash, who was working with Respondents No. 2 and 3, i.e. Military Engineer Services (MES), Delhi Cantt, as a Mason and the Premises was allotted to her

¹ “the Premises”



husband during the course of his employment on 23rd July, 2015. She had also claimed occupation of the Premises with her husband.

3. Taking note of these circumstances, on 16th March, 2023, this Court instructed the counsel representing the Petitioner to apprise reasonable timelines within which the Petitioner would be willing to voluntarily vacate the Premises. Meanwhile, the Respondents were instructed to intimate the outstanding dues, if any, which the Petitioner was to be paid upon the demise of her husband.

4. Subsequently, on 28th March, 2023, the Court passed the following order:

“1. This hearing has been done through hybrid mode.

2. The Petitioner is a widow whose husband used to work with the Respondent No. 2 and 3 i.e. Military Engineer Services (‘MES’), Delhi Cantt as a Mason. He was allotted Quarter No. P-5/5 Kingsway Camp (Type-II) (‘the said premises’) vide allotment letter dated 23rd July 2015. He passed away on 4th May, 2020 during the COVID-19 Pandemic.

3. Since the death of the Petitioner’s husband, she has been in occupation of the said premises which was allotted to her husband on 23rd July, 2015. Vide impugned letters dated 3rd March 2023 and 7th March 2023, the Petitioner has been asked to vacate the said premises, and clear the rent and electricity charges that have accrued since 5th April 2020 till the date of vacation of the said premises. The said letters and notices are under challenge.

4. Vide order dated 16th March 2023, the Ld. Counsel for the Petitioner was to seek instructions as to how much time is needed for her to vacate the premises. Ld. Counsel for the Respondent was to seek instructions, on the dues which the Petitioner was to be paid upon the demise of her husband, and whether there were any outstanding dues in this respect.

*5. **After some hearing, the ld. Counsel for the Petitioner submits that the Petitioner is willing to vacate the said premises within a reasonable period of six months.** However, ld. Counsel for the Respondent submits that insofar as the dues payable to the Petitioner are concerned, the Respondent No.1- Union of India has already taken a decision as contained in order dated 30th October, 2021. The decision dated 30th October 2021 passed by ld. Central Administrative Tribunal, Principal Bench, New Delhi in **Smt. Rekha v. Union of India***



is as follows:

“1. Reference OA No 1843/2021 filed by you in Hon’ble CAT (PB), New Delhi and order delivered by Hon’ble CAT on 01 Sep 2021. This speaking order is being issued in compliance with the Hon’ble CAT (PB), New Delhi 01 Sep 2021 in OA No.1843/2021, where in Hon’ble CAT(PB) New Delhi has directed the respondents to pass a reasoned and speaking order within two month from the date of receipt of copy of order.

2. MES-374729 Late Shri Prakash expired on 04.05.2021, while on servic. The deceased was appointed as Mazdoor on 13 Jul 1992 in the office of GE Red Fort, Lucknow Road, Delhi vide appointment letter No 1024/C/1079/E1 dated 30 Jun 1992. The deceased was unmarried at the time of initial appointment. The following nomination forms were submitted by the individual on his initial appointment nominating his mother Smt Chandro as Nominee:

(e) Death cum retirement gratuity (Photocopy enclosed)

(f) Family Pension -do-

(g) CGEGIS 1980 -do

(h) General Provided Fund -do-

3. The Deceased got married with Rekha D/o Babu Ram on 23 Mar 2015 as per marriage certificate issued by Arya, Samaj Vedic Sanaskar Trust, Tis Mazari, New Delhi vide certificate No M-307/15 dated 23 Mar 2015 and the same was published by this office vide PTO No. 32/01/2015 dated 10 Aug 2015. (Photocopy enclosed). On scrutiny of marriage certificate, it was found that the marital status of both are “DIVORCEE”, but the deceased neither intimated his first marriage nor changed, before his second marriage. A Son named Vanshu was born to his second wife (Rekha) on 25 Dec 2015 the same was published by this office PTO No 38/06/2017 dt. 18 Sep 2017. (Copy enclosed). The deceased did not submit change of nomination as mentioned at Para 2(a) to (d). After his death, his mother and wife both are solely claiming all pensionary benefits. In this critical situation the case was referred to CGSC vide this office letter No 1062/Pension/07/E1 (Pen) dated 09 Sep 2020 for legal opinion to release pending dues of pensioner benefits to avoid legal complication. Legal Opinion received from Sh Sanjeev Yadav, Advocate, vide their letter No S/Yadav/letter/2020/01 dated 07 Nov 2020 that the claimants be asked to furnish the succession certificate from the competent Court as their admission on the part that late Prakash was married to some another woman



before second marriage with Smt Rekha and there is no divorce decree on the record. Hence to avoid any controversy in future, regarding the release of terminal benefits which has been intimated to you and mother of late Prakash, but till date no supporting documents have been received in this office by either side.

4. Though this office has all sympathy with your family but as per prevailing rules in vogue in the absence of nomination in favour of spouse, the gratuity will be distributed in equal share amongst all surviving members of family as defined under Rule 50(6). Although you have submitted in your letter dated 24.12.2020 that you have provided succession certificate but same has not been succession certificate from competent court of law in the form of legal documents so that the claims of the rival parties can be settled once for all. (Clarification by Min of Law Rule-53).

5. Kindly acknowledge the receipt of this speaking order.”

6. The computation of the amount payable to the Petitioner is forthcoming as per the above order. Accordingly, let a counter affidavit be filed by the Respondent- Union of India within six weeks. Rejoinder be filed within six weeks, thereafter.

7. The pendency of this writ petition shall not in any manner prevent the Respondent from initiating proceedings in accordance with law, seeking eviction.

8. List before the Registrar on 12th May, 2023.

9. List on 4th September, 2023. 10. Interim order to continue.”

[Emphasis Supplied]

5. As can be noted from Paragraph No. 5 extracted above, the Petitioner had willingly agreed to vacate the Premises within a period of six months. Thereafter, the proceedings have continued and the six months have also lapsed.

6. Today, the Court is apprised by the counsel for the Respondents that the Petitioner herself has deceased on 2nd May, 2024. The copy of the death certificate of the Petitioner has been handed over across the board and the same is taken on record.

7. In light of the aforementioned orders and the unfortunate development of



the Petitioner's demise, the cause of action in the present petition does not survive any longer.

8. Accordingly, the present writ petition is disposed of along with pending application.

SANJEEV NARULA, J

SEPTEMBER 23, 2024/ab