



2024-DHC-1555-DD



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

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Date of decision: February 23, 2024

+ W.P.(C) 10306/2023 & CM APPL. 39859/2023

(11) BHANUMATI

..... Petitioner

Through: Mr. D. S. Chauhan, Ms. Divyanshi
Rajawat and Ms. Garima Main
Nirmal, Advocates

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Manoj Kumar Tyagi, SPC
with Mr. Shakhar Tyagi, Advocate

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

SAURABH BANERJEE, J. (ORAL)

1. After the demise of her husband, the petitioner was appointed as a Group-D employee in the Indian Air Force w.e.f. 03.01.2000 as Multi-Tasking Assistant at 7 BRD, Air Force Station Tughlakabad, New Delhi on compassionate grounds, whereafter, she was initially allotted government accommodation at Qtr. No. 13, Type-II, Sector-1, Block-140, MB Road, Pushpa Vihar New Delhi on 27.12.2010 and then later allotted Qtr. No.1513, Type II, Sector-3, Block-MS, MB Road, Pushpa Vihar, New Delhi¹ w.e.f. 18.05.2016.

2. Upon inspection by respondent no.2/ Estate Officer cum Asstt. Director, Directorate of Estate, Ministry of Housing and Urban Affairs on

¹Hereinafter referred to as 'quarter'



08.11.2017, the said quarter was found to be in the occupation of one Ms. Sunita and her daughter Rajsri instead of the petitioner.

3. As such, vide a Show Cause notice dated 21.11.2017, the petitioner was called upon to appear before the respondent no.2 on 06.12.2017. On appearing, though she submitted that Ms. Sunita, her niece, had only come to visit her due to her ill-health, however, her failure to prove her relationship with Ms. Sunita led to passing of an order dated 22.03.2018 by the Deputy Director of Estates (E), wherein, upon finding that the petitioner had illegally sublet the quarter allotted to her, the Competent Authority cancelled her allotment and after imposing penalty, directed her to handover the vacant possession thereof to the Central Public Works Department.

4. The petitioner preferred an appeal against the said order before the respondent no.3/ Director, Directorate of Estate, which, after rejection vide order dated 16.07.2018 passed by the Asst. Director of Estates (E), led to passing of the final Eviction Order under *Section 5(1)* of The Public Premises Eviction of Unauthorized Occupants Act, 1971² dated 31.12.2018, wherein, as the petitioner had failed to vacate the quarter despite cancellation of her allotment, she was called upon to vacate the same within 15 days of passing of the said order. Resultantly, the respondent no.3, vide its order dated 14.02.2019 apprised the Office In-Charge, Civil Administration, 7 BRD, Air Force Station Tughlakabad, New Delhi-110062 qua cancellation of the allotment of her quarter, and further informed him that the request received from the petitioner dated

²Hereinafter referred to as 'PP Act'



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January 2019, seeking permission to continue allotment of the quarter and for waiver of penalty of Rs. 10 lakhs, cannot be acceded to.

5. It was then that the petitioner finally vacated the quarter on 05.07.2019, whereafter the CGO(A), OI/C Civil Admin, vide an order dated 01.03.2021 called for the recovery of damage rent of Rs.13,78,488/- being the License Fee for the period from 27.12.2010 to 22.03.2018 from the petitioner.

6. The petitioner challenged the same by way of an appeal under *Section 9* of the PP Act before the learned Principal District and Sessions Judge (South), Saket Courts³. Based on an affidavit of the Deputy Director, Director of Estate dated 05.12.2022 stating that since the petitioner vacated the quarter on 05.07.2019, the total amount recoverable qua License Fee, water charges and sub-letting charges etc. as on 31.12.2022 from her were Rs.19,63,632.05 of which Rs.6,83,808/- had already been recovered and the recovery of the balance amount was still continuing, *coupled with* the voluntary statement made by the petitioner that the penalty of Rs.12,79,824/- as on 31.10.2022 was acceptable to her and that she had no objection if the same is recovered from her by making a monthly deduction of Rs.25,000/- from her salary, the learned District Court disposed of the said appeal vide its order dated 16.12.2022.

7. Faced with the aforesaid situation, the petitioner has now preferred the present petition under Article 226 of The Constitution of India seeking setting aside of the earlier orders dated 31.12.2018 and

³Hereinafter referred to as 'District Court'



14.02.2019 whereby her allotment had been cancelled and penalty/ damages of Rs.19,63,632/- were imposed upon her.

8. Learned counsel appearing for the petitioner submits that the impugned orders are liable to be set aside as the same have been arbitrarily passed in a mechanical manner, without considering the case and evidence of the petitioner. As per him, the petitioner had never sublet the quarter and that the persons found at the quarter at the time of inspection were in fact her relatives who had come to visit her due to her ill-health. He further submits that the prescribed procedure of inquiry has not been followed and the procedure adopted by the respondents was in complete contravention of the Act.

9. Before proceeding, this Court finds that despite previous listing of the present petition on a few occasions, notice is yet to be issued to the respondents.

10. Be that as it may, this Court after hearing the learned counsel for the petitioner as well as perusing the documents on record finds that since the passing of the impugned orders dated 31.12.2018 and 14.02.2019, there have been substantial change of events as, *firstly* the petitioner has specifically in her voluntary statement made before the learned District Court accepted the penalty of Rs.12.79,824/- as on 31.10.2022, and, *secondly* in view thereof, the petitioner has categorically conveyed her no objection of the said amount being recovered from her salary in the form of a monthly deduction @ Rs.25,000/- and, *thirdly* the petitioner has, *admittedly*, not challenged the order dated 16.12.2022 passed by learned District Court in the appeal under *Section 9* of the PP Act filed by her wherein it has been recorded so.



11. In effect, during the filing and pendency of the present petition, *admittedly*, the said order 16.12.2022 was always glaringly staring at the petitioner's face. The petitioner cannot be permitted to agitate and/ or argue something in ignorance thereof or which is contrary thereto. In view thereof, this Court is afraid that the arguments raised by the learned counsel for the petitioner do not exude any confidence. The petitioner cannot be permitted to unwind the clock, by simply overlooking or giving a go-bye to the subsequent sequence of events since the passing of the impugned orders, especially the order dated 16.12.2022 passed by the learned District Court, which continues to still haunt her.

12. *De-hors* the above, there can be no denial of the fact that even prior to the passing of the order dated 16.12.2022 by the learned District Court, the very same issues/grounds raised by the petitioner herein in the present petition, which have already, not only been agitated and argued before but have also been duly adjudicated upon by the respondent authorities noting the fact that the petitioner was unable to show/ prove her relationship with Ms. Sunita after due deliberation as also when the petitioner herself has accepted the penalty imposed upon her and given her no objection for making the recoveries thereof. As such, the same being impermissible, the petitioner cannot be allowed to once again re-agitate and reargue the very same contentions before this Court by virtue of the present petition.

13. Thus, in view of each of the aforesaid factors being sufficient, and for the discussions hereinabove and the reasoning given therein, the present petition deserves outright dismissal without issuance of any notice thereon.



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14. Before parting, this Court finds that under the present circumstances involved, the present petition is a sheer abuse of process of law, as the petitioner, despite being fully well aware of the subsequent events, has chosen to file the same before this Court. This has, thus, not only led to the loss of precious time and effort of this Court but also the time, effort and money of the respondents, eventually leading to the loss of public exchequer. Therefore, though according to this Court, this is a fit case for dismissal 'with imposition of costs', however, considering the factual aspect from a humanitarian point of view, this Court refrains from imposing any costs.

15. Accordingly, the present petition alongwith the pending application, is dismissed. No order as to costs.

SAURABH BANERJEE, J

V. KAMESWAR RAO, J

FEBRUARY 23, 2024/So