

IN THE HIGH COURT AT CALCUTTA

CIVIL REVISIONAL JURISDICTION

APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CO 2823 OF 2012

SHRI JAYANTA KUMAR MITRA ALIAS J.K. MITRA

VS

UNION OF INDIA & ORS.

For the Petitioner : Mr. Ayan Banerjee, Adv.

Mr. Joyjeev Medhi, Adv.

For the Opposite

Party nos. 1 & 2 : Mr. Ajit Kumar Mishra , Adv.

Ms. Tanusree Ghosh, Adv.

Last heard on : 29.07.2025

Judgement on : 04.09.2025

CHAITALI CHATTERJEE DAS, J. :-

1. This revisional application under Article 227 of the Constitution of India is directed against the judgement and order dated 26th day of July, 2012 passed by learned Additional District Judge, 5th Court, South 24 Parganas in P.P appeal no. 16 of 2011 where by in exercise of the powers conferred under subsection (1) of Section 5 of the Public Premises(Eviction of Unauthorised Occupants Act,) 1971, directed the present petitioner to vacate the premises within 15 days from the date of publication of the order and in the event of refusal or failure to comply with the order within the specified above period, the petitioner will be liable to be evicted from the premises.

- 2.** The fact of the case of the petitioner in action is that the petitioner was an employee of Metro Railway as Chief Operation Manager and while in such post, he was allotted with a railway quarter being Flat No. 4 at premises No. 90, Chowringhee Road, P. S. – Bhawanipur, Kolkata – 700020. He got superannuated from the post of Chief Operation Manager, Metro Railway on January 31, 2010 and was appointed by RITES, a Government of India Enterprise, Ministry of Railway as advisor (Traffic) in the Office of General Manager (P), M/s RITES Ltd. at the Regional Project Office Metro Railway, service Building, second floor, 56, C.R Avenue, Kolkata 7000 12 with effect from March 19, 2010. The petitioner retained the said flat on normal rent with effect from 1.2.2010 up to 31.5.2010 and on double rent from 1.6.2010 to 30.9.2010 with approval from the General Manager Metro Railway.
- 3.** Since the petitioner was appointed as an advisor in RITES, which is also a Government of India enterprise under the Ministry of Railway prayed for allowing him to continue with the above allotment in respect of the said Railway Quarter and applied on 9.9.2010 for a further retention for a period of 8 months from 1.10.2010 on double rent . The said letter was forwarded to the Railway Board for consideration and appropriate decision vide Memo No MRTS/E/321/8/JKM dated 27.9.2010 by the Chief personnel manager for the G.M M. Railway. The Railway board advised G.M,M Rly to deal with the petitioner's representation according to the Board 's circular dated 17.10.2007 which delegated the power of permitting retention of Railway quarters on Medical ground upon the General Manager of the respective Railways .The petitioner's request for further retention for another 8 months was not considered .

- 4.** A circular dated 30.11.2010 was issued by the Railway Board, permitting mutual exchange of staff quarters between zonal Railways and Railway Public sector undertakings. The G.M(P) RITES wrote to G.M, M. Railway vide memo, No. 12/P/Misc./2010/6496 dated 20.12.2010, seeking interchange of one RITES quarter at Liluah with the railway quarter at 90, Chowringhee Road, which is in possession of the petitioner so that he can continue to retain it. The said petition was never considered not rejected by the G.M, M. Rly. Senior divisional engineer and the Estate Officer issued a show-cause notice dated 12.9.2011 and also called upon the petitioner to appear before him with relevant documents on 19.9.2011 for personal hearing. The petitioner prayed for an adjournment, however, such adjournment was not granted and the order of eviction was passed on 24.10.20 11 ex-parte.
- 5.** Challenging the unlawful actions of the respondent in passing the order of eviction without considering either the petitioner's letter dated 9.9.2010, nor the letter issued by G.M (P) RITES dated 20.12.2010, the petitioner approached the High Court by filing a petition being W.P No. 17, 897(W) of 2011, which was disposed of directing the petitioner to approach the appropriate appellate forum for adjudication of his claim by an order dated 8.11.2011. Pursuant to such order, the petitioner preferred a P.P appeal before the Additional District Judge, 5th Court, Alipore, meantime, the order of eviction was given effect on 11.11.2011 during the absence of the petitioner by putting padlocks on both the doors in presence of witnesses, which is clear from the joint note.
- 6.** By a judgement and order dated 26.7.2012, the said P.P appeal was dismissed granting liberty to Metro railway to remove the padlock and the locked articles as per law. However, in spite of such direction, the respondent continued to

keep articles locked inside and to charge damage rent on such account. Challenging the order of Additional District Judge as well as the order of eviction passed by the Estate officer the petitioner filed civil revision being C.O no.2823 of 2012 on 8.8.2012. During pendency of the list as per advice of the Railway to the Indian Bank to recover rent, not only for the period when the petitioner was in possession of the premises but also damage rent for the flat as well as the garage, water charges and electricity charges for the period during which the railways had kept the petitioner's belongings, wrongfully put pad lock inside the said flat. The bank deducted, the said damage rent from the petitioner's retrial benefit. These subsequent facts were brought on record by the petitioner by filing the application in this revisional application being C.A.N number 6242 of 2013.

7. The Learned Advocate representing the petitioner argued that Metro railway after issuing a notice under Section 6 sub-section (1) of the Act of 1971 on 15 November 2011, instead of disposing of the property remaining on such premises as provided in the statute, continued to keep such property of the petitioner locked inside with an ulterior motive of realising damage/rent from the petitioner which itself shows the mala fide and vindictive attitude of the respondent authorities. It is further submitted that during pendency of the appeal before the additional district judge, the respondent Railway advised the Indian bank to recover rent by its Office letter dated May 30, 2013, not only for the period when the petitioner was in possession of the premises but also damage rent for the flat as well as the garage, water charges and electricity charges for the period during which the Railways wrong fully kept the petitioner's belongings inside the said flat after the same being padlocked. The

bank pursuant to such advice deducted the damage rent from the petitioner's retrieval benefits. It is further submitted that the Estate officer overstepped his authority in passing the order of eviction by deciding that the circular dated November 30, 2010 is not applicable to the petitioner. The stand of the petitioner as argued before this court that the representation dated December 20, 2012 could be decided only by the G.M. Metro railway. The action of the Estate Officer is only without jurisdiction and shows gross misuse of power.

8. Furthermore the circular dated November 30, 2010 is passed permitting mutual exchange of staff Quarters between zonal Railways and PSUs and the circular merely refers to an earlier circular which concerned Officers on deputation, but the present circular was not restricted to the Officers on deputation only. The Learned Advocate representing the petitioner relied upon the decision reported in ***Kedarnath Agarwal (dead) & amp; Anr vs Dhanraji Devi & amp; Anr.***¹ On the issue that a court of law may take into account subsequent events in order to shorten the litigation. Reliance has been put in the decision reported in ***Radha Ballabh vs Union of India & amp; Anr.***² Where it was held damage rent not to be recovered. It is further argued that when his request for adjournment is ignored it amounts to violation of principles of natural justice and accordingly relied upon a decision reported in. ***Union of India & amp; ors vs I.S Singh***³ where in connection with departmental enquiry it was held in cases punishment has been imposed on the basis of ex-parte enquiry without considering the prayer for adjournment, it amounts to violation of natural justice. Further reliance was placed on a decision reported in ***R. Kapoor vs***

¹ (2004) 8 SCC 76

² 2005 SCC online SC 1290

³ 1994 supp (2) SCC 518

Director of Inspection (painting and publication) Income tax and Anr⁴.to

substantiate that right of such a retired employee from gratuity is not dependent on vacating the government accommodation.

9. Per contra, the argument advanced on behalf of the Union of India that the revisional application is not maintainable as the prayer made in this application was to set aside the judgement and order dated 26th day of July, 2012 passed by the learned additional district judge arising out of T.P appeal number 16 of 2011, but during the course of submission the petitioner prayed for non-prosecution of such revisional application and tried to make out a case of refund of the amount being deducted from the petitioner by the respondent, however, no such prayer was made in the application, though such prayer was made before the court at the time of hearing. It is the cardinal principle of law that the courts cannot go beyond the pleadings and therefore the petitioner should confine his submission to the question raised in the pleadings. So far the possession of property and deduction of rent with penal charges as assailed by the petitioner, it is argued that the petitioner had agreed to deliver vacant possession of the property by removing his belongings on 15th day of October, 2012. A.M. therefore his possession any day thereafter, clearly evinces the unauthorised occupation of the petitioner. It is submitted that the representation of the petitioner was duly replied and in terms of Railway Board circular, the permission was granted for a period of four months with effect from 1.6.2010 to 30.9.2010 and in the railway circular, it was clearly mentioned that the exchange can only be done if it is carried out on mutual exchange, but the petitioner never came with any proposal of such type of mutual exchange.

⁴ (1994) 6 SCC 589

10. It is further argued that the impugned order does not suffer from any infirmity and not required to be interfere with. Challenging the order dated October 24, 2011 the petitioner filed a writ petition being W.P number 178979 (w) for 2011, when in the impugned order it was held by Justice Aniruddha Bose with that said ordered does not violate the principles of natural justice, nor the order suffered from any illegality as being alleged. Accordingly prayed for dismissal of this application with exemplary cost.

11. From the above factual backdrop, the uncontroverted fact found are the petitioner was an employee of Metro railway and superannuated from the post of chief operations manager, Metro Railway on January 31, 2010 .He later on appointed by RITES, which is also a Government of India Enterprise, Ministry of Railway as advisor (traffic) with effect from March 19, 2010 and he retained the disputed flat on normal rent from 2.1.2010 up to 31.5.2010 and on double rent from 1.6.2010 to 30.9.2010 .He applied for further retention for a period of 8 months from 1.10.2010 on double rent . The dispute started when his prayer for further retention of 8 months was turned down. The petitioner's case rest on the Memo no 12/P /Misc /2010 /6496 dated 20.12.2010 whereby the petitioner sought for interchange of one RITES quarter at Liluah with the railway quarters under possession of the petitioner since according to the petitioner the said letter was never considered neither rejected .

12. Before delving into the details of the case at the outset it is pertinent to mention herein that the record of the case reveals that this revisional application was filed being aggrieved by the order of Estate officer whereby the order of eviction has been passed. During pendency of the matter the petitioner filed an application praying for appropriate order and vide an order dated

September 7, 2012 in this revisional application, the Coordinate Bench of this Court passed the direction on the submission made by the learned Senior advocate Mr. Shakti Nath Mukherjee representing the petitioner, expressing the willingness of the petitioner to deliver vacant possession of the flat by removing his belongings and prayer for permission to remove his article on October 11, 2012 in between 6 am to 6 pm and to file an affidavit within seven days from the date of such order and deliver vacant position of the state premises in question in favour of the opposite parties without fail and if such undertaking is given the impugned order shall remain stayed till November 30, 2012. After that the petitioner handed over the vacant possession.

13. That apart the petitioner later on by way of supplementary affidavit filed before this court incorporated the assessment of damage dated 30th May, 2013 amounting ₹2, 47, 205 which was to be recovered from dearness relief. He further filed the letter of Metro railway authority accounts department dated 6th June, 2013, authorising the Manager, Indian bank, link branch to recover the above amount from his dearness relief on pension in every month till the full amount of rupees 2, 47, 205 is recovered and further the letter dated August 18, 2014 whereby the Indian Bank informed the office of the Metro Railway about recovery of the entire amount payment of reduced pension in these nine months. The petitioner never prayed to amend the prayer made in the original application though prayed for treating the supplementary affidavit as part of the revisional application and therefore in view of these subsequent event there remains nothing for further adjudication. The petitioner's willingness to hand over the possession was recorded by the court and only after that the possession was handed over hence the petitioner at present cannot claim that

his quarter was under padlock and possession was with the Authority and any demand made towards damage rent cannot be charged by the Authority .

14. Furthermore in terms of Rule 15 and Rule 16 of the Railway Service ((pension) Rules ,1993 which are produced hereunder;

15. Recovery and adjustment of Government or railway dues from pensionary benefits:

1. It shall be the duty of the Head of Office to ascertain and assess Government or railway dues payable by a railway servant due for retirement.

2. The railway or Government dues as ascertained and assessed, which remain outstanding till the date of retirement or death of the railway servant, shall be adjusted against the amount of the retirement gratuity or death gratuity or terminal gratuity and recovery of the dues against the retiring railway servant shall be regulated in accordance with the provisions of sub-rule (4).

3. For the purposes of this rule, the expression "railway or Government dues" includes a. dues pertaining to railway or Government accommodation including arrears of license fee, if any;

b. dues other than those pertaining to railway or Government accommodation, namely balance of house-building or conveyance or any other advance, overpayment of pay and allowances, leave salary or other dues such as Post Office or Life Insurance premium, losses (including short collection in freight charges shortage in stores) caused to the Government or the railway as a result of negligence or fraud on the part of the railway servant while he was in service.

4. i. A claim against the railway servant may be on account of all or any of the following: -

(i) (ii).....

iii. Sanction to pensionary benefits shall not be delayed pending recovery of any outstanding Government dues. If at the time of sanction, any dues remain unassessed or unrealised the following courses should be adopted: -

a. In respect of the dues as mentioned in sub-clause (a) of clause (i) of this sub-rule. A suitable cash deposit may be taken from the railway servant or only such portion of the gratuity as may be considered sufficient, may be held over till the outstanding dues are assessed and adjusted.

16. In the Railway Services(pension) second amendment Rules 2000 Section 3 (e) specifically mentioned that in case of dispute if any regarding recovery of damages or rent from the ex-Railway employee shall be subject to the adjudication by the concerned Estate Officer appointed under the Public Premises (Eviction of unauthorized occupants Act)1971 . Therefore this court has no authority to enter upon the dispute as to whether the calculation of damage was correctly made or not.

17. In the above facts and circumstances this Court now move on to the main matter.

18. The case would reveals that since the petitioner did not vacate the flat which he was allotted with while in service under the Metro Railway, a notice to show cause was served under Section 4 of the Act of 1971 on September 12, 2011, and despite that the petitioner did not vacate the flat, nor respond to the same and accordingly the Estate officer Passed the eviction order on October 24, 2011. It is pertinent to mention herein that against such order of eviction, the petitioner filed the appeal before the Learned Court of District Judge and pending the same the authority put one pad lock on the petitioner's entrance

door of the suit flat and therefore the petitioner filed one application for injunction to permit him to stay in the same flat along with his family members, since the suit flat was stuffed with valuable articles, furniture, etc., and there are equipment like oxygen, cylinders, nebuliser, etc., which are required for the treatment of his wife. The petitioner further prayed for stay of operation of the order of eviction and since the said applications were kept pending, the petitioner moved an application under article 227 of the Constitution of India being CO number 4148 of 2008 for expeditious disposal of the matter. On December 23, 2011, after hearing the submission made on behalf of both sides the learned single bench permitted the petitioner to take out certain articles mentioned in the order from the premises in question on December 27, 2011 and further directed to expedite the hearing of the application filed under Section 5 of limitation act for condoning the delay in filing the appeal. It is seen that the Learned Single Bench was only given to the petitioner to take back his article, but not inclined to decide any of the points that are pending for consideration before the Learned Appellate Court. The possession was handed over in the year 2011 pursuant to a direction upon him by the co-ordinate Bench of this Court.

- 19.** The first question falls for consideration that whether there is any policy of the Metro railway and the Ministry of Railways, that after superannuation when a person is appointed at a Government of India enterprise organisation under the Ministry of Railway would be entitled to continue with the quarter allotted to him while he was in his previous posting. The possible answer can be seen from the circular of the Board where it was clearly mentioned that the quarters are only meant for the employees of Metro Railways but in case of any proposal of

mutual transfer the same may be permitted. It goes without saying that the petitioner made two fold prayers before the authority. The first of which was for permitting him to continue with the retention of the flat till he is engaged with his assignment at RITES and second is on medical ground of his wife to accord approval for retention of further period of 8 months. The letter of the G.M (personnel) of RITES dated July 6, 2010 was on the verge of completion of the outer limit of the extended period to the General Manager Metro Railway for allotment of the quarter with the reference made with the Railway Board's instruction in the letter dated April 13, 2010 and April 23, 2010, which pertains to the Railway Boards directive regarding retention of railway accommodation, applicable only for officers of the railways serving on deputation in PSU that is those having lien on the railways. The specific stand taken that the Railways have allotted space to RITES on rent at different locations and on the same line request was made for one Metro railway quarter to RITES for occupation of the petitioner on a reasonable rent which is an exclusive request made and to be decided by the Railway Board ..

- 20.** The argument made by the Learned Advocate of the opposite party that vide an order dated July 11, 2011 from Ministry of Railway the advice came permitting the prayer of the petitioner beyond the permissible period of eight months for another eight months may be dealt with under the instructions contained in Board's letter no E.(G.) 2007 QR1-9 dated 17-10-2007 and on November 30, 2010 from the Ministry of Railways, one circular was published, which was intimated to the managing Directors/Executive Directors of all the Railway public sector undertakings which includes RITES that the instructions contained in Railway Boards, letter number E.(G.) 2008. /QR 1-15, dated

1.11.2010.(RBE number 158./2010) governing retention of railway accommodation by railway office officers/staff on deputation to railway public sector undertakings up to June 30, 2013 or whenever their own quarters become available, whichever is earlier. In the light of said decision, it is decided that mutual exchange of staff quarters between zonal Railways and the railway Public sector undertakings will be permitted. By virtue of such notification, it was also decided that Railway public sector undertakings shall undertake construction of houses immediately both on their own land and on railway land, where feasible.

21. This communication or circular makes it clear that the claim of the petitioner through the General Manager of RITES as forwarded to the General Manager, Metro Railway on the ground of having lien does not find place. From the letter of the general manager of RITES dated September 2,2010, it is seen that it was specifically agitated that a number of Metro railway quarters are under occupation of officers of other Railways as well as PSUs and in fact, some quarters have been allotted to applicant officers from other Railways directly and as RITES a number of important projects pertaining to the railways request was made once again to see the way for leasing the quarter under occupation of Mr. Mitra/the petitioner on reasonable rent. This court from the above nature of communication made between the Metro railway and the RITES, which is also a Government of India undertaking cannot rule out a possibility of an internal dispute between the two authorities regarding allotment of quarter to the employees of RITES which can in no allow the petitioner to continue with the possession of the disputed flat after expiry of the extended period without having any permission to that extent. Lastly, another letter was addressed to the

general manager of Metro Railway by the general manager of RITES giving a proposal for interchange of 1/4 of Metro Railway 90 Chowringhee Road, fourth floor with RITES quarter at Lilua and the date itself reveals that the petitioner was in possession till that date in respect of the flat though the period of permission to use such flat has been expired long before. The question arises at this stage is if an employee of a government undertaking can continue or retain his possession in respect of a government quarter, even after expiry of the period of permission, granted only on the ground that his prayer to retain the said flat has not been considered properly by the Metro railway authority and certainly the answer would be negative in absence of any policy framed to that extent.

22. The petitioner being aggrieved by the order passed by the learned District Judge filed one writ petition being W.P. number 17897. (w) of 2011, which appeared before coordinate bench of this Court where initially it was observed that the order passed under section 5 (1) of the public premises Act 1971 is an appealable order in terms of section 9 of the said Act. It was further observed that there is neither any violation of the principles of natural justice, nor any ex-facie illegality in the order for effecting adjudication of the claim of the petitioner, certain circular of the railway board required construction. The appropriate authority under the act would be the appropriate forum for adjudicating that issue. Accordingly the petition was dismissed. Pursuant to the submission of the Learned Advocate representing the opposite party that the court clearly observed that there is no violation of the principle of natural justice and illegality in the order and therefore no further intervention is necessary. This argument may not have much force to stand since such observation was

made regarding maintainability of the writ petition before the said court and therefore observe that the appropriate authority would adjudicate the issue involved therein.

23. So the crux of the matter is that the quarter allotted in favour of the petitioner while he was in service in the Metro railway was allowed to be retained for a period eight months but his subsequent prayer for retaining for further 8 months on the ground of the illness of his wife with effect from 11.10.2010 when he got superannuated on January 31, 2010 and was appointed by RITES a Government of India, enterprise, Ministry of Railway with effect from March 19, 2010 for a period of one year was not considered. On the basis of a subsequent circular he made prayer to interchange was not specifically replied. The previous policy of not extending any quarter in favour of the employees, other than the Metro railways was subsequently modified to mutual exchange of quarters between the employees of Metro railways and the employees of other Public Sector undertakings and the proposal of the petitioner of mutual exchange of quarter as prayed for was also not considered but the show cause notice was served upon him to vacate the quarter which he failed and accordingly a proceeding in terms of section 5 of the act of 1971 started against him and the Estate Officer passed the order of eviction. The decision cited by the Learned Advocate representing the petitioner in ***Kedarnath Agarwal(dead) and another versus Dhanraj Devi (dead) by LRS and another(supra)***. It was observed by the Supreme Court that though the basic rule stated that rights of parties are to be determined on the basis of date of institution of suit or proceeding, and were to be tried at all stages on the cause of action as it existed at the commencement of the suit or proceeding, however, it was the power and

duty of the court taking into account the subsequent event considering the changed circumstances. In this case, the letter/circular dated 30.11.10, whereby the modification of earlier circular governing retention of railway accommodation was dealt with is portrayed as a subsequent event for which the letter dated December 20, 2010 was filed by the general manager RITES with the proposal of mutual exchange of quarter but this Court is unable to consider the same as a subsequent event in respect of the case of the petitioner as the same the circular was of dated 30.11.2010 and the letter of proposal was of 20 December 2010 i.e after expiry of the period to retain the quarter and the petitioner without having any further permission, continue to retain such quarter, and such occupation in the eye of law is nothing but unauthorised occupation of the quarter and the court cannot consider any event which is beyond the disputed period under the garb of subsequent event and hence the fact and circumstances being way different than that of the facts and circumstances of the above case as relied the said cases is clearly distinguishable. So no case could be make out by the petitioner for interference with the order of the Learned Appellate Court so far the order of eviction is concerned.

24. The second limb of argument of the petitioner was that during pendency of the lease, the respondent Railway advised the Indian bank to recover rent, not only for the period when the petitioner was in possession of the premises but also damage rent for the flat as well as the garage and other charges for the period during which the railways kept the petitioners belonging wrongfully padlocking, inside the said flat. It is seen from the record that an application being can number 6242 of 2013 was filed for appropriate order by the

petitioner, where by a memorandum of the Metro Railway dated May 30, 2013 the concern Officer of the pension cell of the Metro railway was directed to recover a sum of ₹12, 47, 205 from the death cum retirement gratuity and the DNS relief and pension of the petitioner, and this sum was calculated considering the petitioner to be an unauthorised occupant of the flat in question for a period of two years and 11 days and rent was also calculated that apart electric bill charges was calculated for the period from April 2002 to January 2007, and February 2010 to October 2012.

25. The stand taken by the petitioner that since the question of legality of occupation of the petitioner in respect of the said flat was to be decided by the by this court, no such memo should be issued by treating the petitioner to be in illegal occupation of the said railway quarter. Such memo dated May 30, 2013 pertains to lease and payment of DCRG of the petitioner who retired on January 31, 2010 and vacated the railway Quarter on October 11, 2012. According to the said memo, he was in unauthorised occupation of the flat for two years 11 days beyond the permissible period. Putting pad lock is in a way amount to dispossession at the same time, it is to be seen that the petitioner did not challenge the order before the appellate authority within time and the section 5 application was pending when the matter was heard before the coordinate bench of the court. The point raised by the petitioner that whether deduction of such amount calculated from the retrial benefit of the petitioner is permissible in the eye of law. In this regard, the decision relied upon by the petitioner *in R. Kapoor versus director of inspection. (painting and publication.) income tax, and another.(supra)* maybe look into. In the said case, the death cum retirement, gratuity was held for non-vacation of the government

accommodation and it was decided by the tribunal that DCRG cannot withhold merely because the claim for damages for unauthorised occupation is pending, should have granted interest at the rate of 18% since right to gratuity is not dependent upon the applicant, the official accommodation. In this regard, the learned advocate representing the petitioner draws the attention of this court to the notification of Railway Service.(pension.) Rules, 1993, where Section 3 speaks as follows.

Rule 16 of the Railway service(pension) rules, 1993, for sub rule (8) (d) any amount remaining unpaid after the adjustment made under clause C may also be recovered without the consent of the pensioner by the concerned account officer from the dearness relief of the pensioner until full recovery of such due has been made.(e) dispute if any regarding recovery of damages or rent from the ex-Railway employee shall be subject to adjudication by the concerned estate officer appointed under the public premises(eviction of unauthorised occupants) act 1971.

26. Therefore, from the entire facts and circumstances, this court is of the view that there is no room to consider further the order of the Learned Appellate Court since the possession has been handed over pursuant to the direction of the High. In **Lalan Thakur versus union of India** , FMA No. 801 of 20 FMA No. 802 of 2019 the Division of this High Court considered the matter, which was almost similar in nature with this case, and a number of decisions were discussed by the Learned Court including **Steel Authority of India versus Raghavendra Singh**⁵ where it was observed,

⁵ 2020 SCC online SC 1063

We, however, set aside the observations made in para 19, 21 qua the principles of penal rent being charged as we are of the view that if an employee occupies a quarter beyond the specified period, the penal rent would be natural consequence and such penal rent can be adjusted against the dues payable, including gratuity. In (2005) 5 SCC 245 Secretary ONGC Ltd versus V.U warrior, the Supreme Court held that an employer could deduct from the gratuity payable to the employee, the penal rent in terms of such statutory rule/regulation.

- 27.** In view of the entire fact and circumstances this court finds no merit in this revisional application and is therefore liable to be dismissed.
- 28.** Hence this revisional application is hereby dismissed without costs.
- 29.** Urgent certified copy if applied by any of the parties to be supplied subject to observance of all formalities.

(CHAITALI CHATTERJEE DAS, J.)