

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction
Appellate Side

Present :
The Hon'ble Justice Hiranmay Bhattacharyya

C.O. 4270 of 2024

Smt. Sipra Dey
-Versus-
The Estate Officer, Durgapur Steel Plant & Ors.

For the petitioner	: Mr. Subrata Bhattacharya Mr. Indranuj Dutta Ms. Benazir Sk.
For the Opposite party no.2	: Mr. Tapas Kumar Banerjee, Sr. Adv. Mr. Shamba Chakraborty

Heard On: : **02.08.2025**

Judgment On: : **02.08.2025.**

Hiranmay Bhattacharyya, J.

1. This application under Article 227 of the Constitution of India is at the instance of the appellant in Miscellaneous Appeal No.07 of 2020 and is directed against a judgement and order dated 2nd March, 2023 passed by the learned District Judge, Paschim Bardhaman.

2. By the judgement and order impugned the order dated February 27, 2020 passed by the Estate Officer in Case No. Estate/Q-B/75/2020/DSP stood affirmed.

3. Facts giving rise to the present civil revision application in a nutshell are as follows:

The opposite party no. 3 was an employee of Steel Authority of India Ltd. (for short "SAIL") and a quarter was allotted to him. The petitioner is the

wife of the opposite party no. 3. The petitioner and the opposite party no. 3 used to reside in the said quarter. Opposite party no. 3 applied for voluntary retirement from service which was granted with effect from 30.06.2016. Subsequently the opposite party no. 3 gave a letter dated 27.11.2018 intimating about the surrender of the quarter mentioning therein the provisional date of vacation as 28.01.2019.

Notices under Section 4(1) of the Public Premises (Eviction of Unauthorized occupants) Act, 1971 was issued to the opposite party no. 3 and other to show cause as to why the eviction order should not be passed. The Estate Officer passed an order of eviction dated 27.02.2020 which was challenged by the petitioner before the learned District Judge, Paschim Bardhaman by filing an appeal under Section 9 of the 1971 Act which stood dismissed by the impugned order.

4. The learned advocate appearing for the petitioner submits that the petitioner is the wife of the opposite party no.3 herein. She submits that there is a matrimonial dispute between the petitioner and the opposite party no.3. The petitioner and the opposite party no.3 started residing in the quarter allotted by the opposite party no.2 in favour of the opposite party no.3 and the opposite party no.3 left the petitioner in the said quarter and is residing elsewhere. She submits that the petitioner does not have any other alternative accommodation for her to reside.

5. Mr. Banerjee, learned senior advocate appears for the opposite party no. 2. He submits that the opposite party no.3 was allotted a quarter by the opposite party no.2 as a condition of his service. He further submits that the opposite party no.3 retired under the Voluntary Retirement Scheme and

thereafter has left the quarter. He submits that the opposite party no.3 also surrendered the quarter by issuing a letter to the opposite party no.2. He further submits that the Estate Officer passed an order of eviction which has been affirmed by the learned District Judge in an appeal under Section 9 of the 1971 Act. Mr. Banerjee places reliance upon a decision of a Co-ordinate Bench in the case of **Sk. Abdul Matleb Vs. Haldia Dock Complex & Ors.** reported at **AIR 2015 Cal 205** in support of his contention that the spouse's right to enjoy occupation of an official accommodation /quarter cannot travel beyond the allottee's entitlement or right to enjoy occupation of the official accommodation/quarter.

6. Heard the learned advocates for the parties and perused the materials placed.

7. Record reveals that the petitioner herein as well as the opposite party no.3 contested the proceeding before the Estate Officer. Materials on record go to show that the notice under Section 4(1) of the 1971 Act was issued to the opposite party no.3 herein directing him to show cause as to why the eviction order should not be passed against him. It further appears from the record that the petitioner herein as well as the opposite party no.3 contested the proceeding before the Estate Officer.

8. The petitioner claims to have filed a case under Protection of women against Domestic Violence Act against the opposite party no. 3 and the learned Judicial Magistrate passed an order directing the opposite party to pay an amount towards the expenses for residence.

9. The Estate Officer took note of the order passed by the Judicial Magistrate, Durgapur in Misc. Case No. 218 of 2016 whereby the opposite

party no.3 was directed to pay an amount on account of interim maintenance of Rs. 4,000/- per month and the opposite party no.3 was further directed to pay a sum of Rs. 3,000/- per month towards the cost of residence. The Estate Officer after noting that the opposite party no.3 herein had voluntarily retired from service with effect from June 30, 2016 held that the opposite party no.3 does not have any right to occupy the official quarter given to him in lieu of his service after his voluntary retirement from service.

10. The petitioner challenged the order passed by the Estate Officer by preferring an appeal being Misc. Appeal No.7 of 2020.

11. The learned District Judge after considering the materials on record held that when the opposite party no.3 has ceased to have right to occupy the quarter after his voluntary retirement the petitioner herein cannot claim any right to occupy the residential quarter which is to be made available to other officials in service. The learned District Judge further noted that the petitioner as well as the pro-forma opposite party no.3 herein got sufficient opportunity to contest the proceeding before the Estate Officer.

12. Petitioner as well as the opposite party no.3 were given sufficient opportunity to represent their case before the Estate officer as well as before the learned District Judge. Thus, there has been no violation of the principles of natural justice.

13. The issue that arises for consideration is whether a wife has a right to enjoy occupation of an official accommodation/quarter allotted to her husband after the husband has surrendered the same upon his retirement. Such issue is no longer res integra. A more or less identical issue cropped up in **Sk. Abdul Matleb** (supra) wherein the husband and the wife used to reside

in the official accommodation or quarter allotted to the husband. Thereafter the husband voluntarily retired from such service and moved out from the quarter. The Co-ordinate Bench held that spouse's right to enjoy occupation of an official accommodation /quarter cannot travel beyond the allottee spouse's entitlement or right to enjoy occupation of the official accommodation/quarter. The Co-ordinate Bench held thus:

"4. Undoubtedly, the writ petitioner and his wife used to reside in the official accommodation/quarter allotted to the writ petitioner by the Haldia Dock Complex/Port Trust authorities. The official accommodation/quarter, during the period of allotment, therefore, was the couple's home. However, the wife cannot claim possession of the official accommodation quarter, once the writ petitioner became disentitled to occupy the same. A spouse's right to enjoy occupation of an official accommodation/quarter and even calling it his/her matrimonial home coexists with the right of the allottee spouse to enjoy occupation of such accommodation/quarter, but cannot travel beyond the allottee spouse's entitlement or right to enjoy occupation of the official accommodation/quarter. In other words, the spouse's right or entitlement vis-a-vis the allottee spouse's right or entitlement is inalienable in nature.

5. The wife, being the respondent No. 5, however, remains unrepresented in spite of being put on notice and in spite of specific observation of this Court as contained in the order dated 18th June, 2014.

6. Ordinarily, the wife should vacate and/or shift since neither the writ petitioner nor his wife can claim to have any legal right to occupy the official accommodation/quarter, once disentitled.

7. In such facts and circumstances, the writ petition is disposed of with a direction upon the Kolkata Port Trust and/or the Haldia Dock Complex to initiate action against the private respondent No. 5 under the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971, in the event she does not vacate and/or shift within three weeks from date since she has no legal right nor is entitled to remain in occupation of an official accommodation/quarter allotted to her husband by the respondent authorities during the course of his employment, especially in a fact situation where her husband has already moved out consequent upon his voluntary retirement."

14. It is thus well settled that the wife has no legal right nor entitled to remain in occupation of an official accommodation/quarter allotted to her

husband during the course of his employment after the husband has already moved out of such quarter consequent upon his voluntary retirement.

15. It is not in dispute that the husband/ opposite party no. 3 has already moved out of the said quarter.

16. In view of the aforesaid discussion this Court holds that the petitioner, being the wife of the opposite party no. 3 has no legal right nor she is entitled to remain with occupation of an official quarter allotted to her husband during the course of his employment when her husband has already moved out consequent upon his voluntary retirement.

17. The learned District Judge considered the materials on record and assigned cogent reasons in support of the ultimate conclusion.

18. This Court is, therefore, not inclined to interfere with such order in exercise of jurisdiction under Article 227 of the Constitution of India.

19. It will be open to the opposite party no.2 herein to take appropriate steps for realization of the dues in accordance with law.

20 Accordingly C.O. 4270 of 2024 stands dismissed.

21. There shall be, however, no order as to costs.

22. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)