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

+ **W.P.(C) 11631/2019**

ESTATE OFFICER & ANR

.....Petitioners

Through: Mr.Rajesh Kumar, SPC with Mr.Rahul
Kumar Sharma and Mr.Yash Narain, Advocates

versus

ARUN KUMAR

.....Respondent

Through: Mr.Rohit Sharma, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

08.04.2025

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1. By way of the present petition, the petitioners seek to assail the impugned the order dated 12.04.2019, passed by the District & Sessions Judge, Saket District Court, New Delhi in PPA No.37/2017.
2. Notably, the impugned order came to be passed in the context of the proceedings initiated by the petitioners/Estate Officer in the light of an order dated 19.01.2017 issued by the Directorate of Estates, thereby cancelling the residential accommodation allotted to the respondent. The cancellation order was preceded by the issuance of a show cause notice dated 29.08.2016. The said show cause notice came to be issued in consequence of an inspection report dated 27.07.2016, wherein, on a spot inspection, a portion of the subject premises (the construction on the roof) was found to have been sublet to two individuals who were present at the spot.



3. Learned SPC for the petitioners contends that the impugned order came to be passed ignoring the inspection report and the photographs taken at the spot clearly establishes that a portion of the allotted premises were sublet to *Mr. Saurabh Ganguli* and *Mr. Rajiv Ranjan*. It is further contended that the respondent in his representations dated 30.01.2017 and 16.05.2017, did not mention the aspect of subletting and merely stated that he was residing at the said premises.

4. *Per contra*, learned counsel for the respondent, while defending the impugned order, not only doubts the veracity of the inspection report but also submits that the show cause notice dated 29.08.2016 was mostly confined to the allegations of the respondent not residing at the allotted premises and the allegations qua sub-letting were general, vague and failed to give any specific details, thereby preventing the respondent from putting forth an effective defence.

5. A perusal of the impugned order would show that the same has found fault with the eviction order passed in the PPA proceedings on the following grounds: -

(i) The inspection report, which formed the basis of initiation of the proceedings against the respondent, was never placed in original before the Estate Officer. Moreover, the same on being produced in the appeal proceedings was found to be signed on a different date. While the inspection was carried out on 27.07.2016, the report was signed on 28.07.2016. Further, the report was found to be signed with two different pens in two different handwritings.

(ii) The inspection report was never supplied to the respondent alongwith the show cause notice, thereby violating the principles of natural justice and



fair representation.

(iii) Although the inspection report mentions that a signed statement of the occupant was taken, the same was never produced before the Estate Officer.

(iv) The inspection report itself notes that one of the occupants, being *Mr. Rajiv Ranjan* is the brother of the respondent. Insofar as other occupant, *Mr. Saurabh Ganguli* is concerned, his driving license reflected him to be a resident of Bihar. In the proceedings before the Estate Officer, the respondent produced statements of *Mr. Saurabh Ganguli* as well as of one neighbour, namely, *Ms. Pushpa Bhutani*. While *Mr. Saurabh Ganguli* stated that he had only visited the respondent and stayed for a week in relation to his exams, the neighbour, *Ms. Pushpa Bhutani* stated that the respondent himself was residing in the allotted premises.

(v) The show cause notice required the respondent to explain as to why he was not residing in the allotted premises. The reply/representation submitted by the respondent was accompanied by documents reflecting his continued residing at the allotted premises. The petitioner never appeared in the proceedings initiated by it before the Estate Officer. Moreover, the use of vague and general expressions instead of specific details about the alleged sub-letting both deprived the respondent of an effective defence as well as raised doubts about the existence of the inspection report at least till the date of the notice.

6. A perusal of the impugned order also reveals that the same has taken into account not only the facts of the case but also relied upon a decision dated 31.10.2017 passed by a Co-ordinate Bench of this Court in Estate Officer v. Beena Rani reported as **2017 SCC OnLine Del 11552**, wherein a similar fact situation arose regarding accusation of subletting. Therein also,



the inspection report was found to be in different handwriting. In the present case, the District and Sessions Judge similarly noted that not only the inspection report appeared to be in different handwriting but was also signed on a date other than the date of the inspection.

7. As noted above, the inspection report mentions about the signed statement of the occupants, however, no such statement was produced before the Estate Officer. The respondent, on the other hand, filed declarations/statements of not only *Mr. Saurabh Ganguli* but also of *Ms. Pushpa Bhutani* (neighbour) and the same were never doubted by way of a cross-examination. In fact, the impugned order records that the petitioner never appeared in the said proceedings and as such, the statements remained un rebutted.

8. This Court, after hearing learned counsels for the parties and traversing through the impugned order as well as the pleadings and evidence available on record, finds no ground to interfere with the impugned order. Accordingly, the present petition, being devoid of merit, is dismissed.

MANOJ KUMAR OHRI, J

APRIL 8, 2025

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