

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

% **Date of decision: 25th September, 2018.**

+ **W.P.(C) 11635/2016 & CM No.45855/2016 (for stay)**

KANHYA LAL **Petitioner**

Through: Mr. R.P. Parashar, Adv.

Versus

**ESTATE OFFICER, DIRECTORATE OF ESTATE
& ANR** **Respondents**

Through: Mr. Rajesh Gogna and Mr. Akhilesh,
Advs. with Mr. Harvesh Kumar, Asstt.
Director.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

1. This petition under Article 226 of the Constitution of India impugns the order [dated 7th October, 2016 in PPA No.90/2015 of the Court of District Judge, New Delhi acting as the Appellate Officer under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (PP Act)] of dismissal of appeal preferred by the petitioner against the order dated 1st October, 2015 of the respondent No.1 Estate Officer in exercise of powers under Section 5 of the PP Act of eviction of the petitioner from government quarter No.45K, Sector-4, D.I.Z. Area i.e. Gol Market, New Delhi.

2. The petition came up first before this Court on 9th December, 2016 when, while issuing notice thereof, operation of the impugned order was stayed. The said ad-interim order has continued till date.

3. The allotment of the aforesaid quarter to the petitioner, by virtue of his employment as Lab Attendant with Intelligence Bureau, was cancelled on the ground of sub-letting by the petitioner of the said quarter. When the petition came up before this Court on 29th August, 2018, Mr. Puneet Bajaj, Advocate then appearing for the petitioner, on enquiry stated that the petitioner was not present in person. The counsel for the respondents stated that the person whose family members were found in the quarter at the time of inspection thereof, was present in the Court. The counsel for the respondents pointed to one person, who was asked to come forward and disclosed his name as Hemant Kumar and confirmed that he had come to the Court for attending this case, which Mr. Puneet Bajaj, Advocate was conducting. The said person, in proof of his identity handed over his Aadhaar Card, giving his address of 45 P, Sector 4, Bangla Sahib Road, DIZ Area, New Delhi, being the quarter earlier allotted to the petitioner which the petitioner surrendered on 27th January, 2015 and in lieu whereof the petitioner was allotted quarter No.45K, where the inspection was carried out. However, the said Hemant Kumar, on 29th August, 2018, though claimed that he was then residing at House No.8/27A, Third Floor, Moti Nagar, New Delhi but stated that he has no proof of residence at the said address. He however handed over his Driving Licence with the address of 281, Fatek Road, Ajmeri Gate, Delhi-06. Photocopy of the Aadhaar Card and Driving Licence were taken on record. Hemant Kumar, on further enquiry, claimed to be a 'family friend' of the petitioner.

4. From the aforesaid, it was observed in the order dated 29th August, 2018, that this petition appears to be based on falsehood. Accordingly, the

petitioner and the persons found in the premises at the time of inspection thereof were ordered to appear today in person.

5. Today, Mr. R.P. Parashar, Advocate appears for the petitioner and states that the petitioner, Hemant Kumar aforesaid, Radhey Lal and Ms. Mithlesh are present in person and has handed over in the Court, Aadhaar Card of Radhey Lal, Ms. Mithlesh and the petitioner. Photocopies of the same have been taken on record and originals returned.

6. The counsel for the petitioner and the counsel for the respondents have been heard.

7. On reports of sub-letting by the petitioner, a surprise inspection of the quarter was carried out at 1230 hours on 10th February, 2015 and during which inspection the said Ms. Mithlesh and Radhey Lal were found in the premises and neither the petitioner nor any member of his family was found. Though Ms. Mithlesh claimed that she was the sister of the petitioner but disclosed the name of her father to be Kanwar Singh, while the name of the father of the petitioner is Narayan Singh.

8. Resultantly, after issuing notice to show cause, allotment in favour of the petitioner was cancelled and proceedings under PP Act initiated and which resulted as aforesaid in eviction. The statutory appeal preferred by the petitioner has also been dismissed by the District Judge.

9. Mr. Parashar, Advocate today has contended that Radhey Lal and Hemant Kumar supra are brothers and Ms. Mithlesh is their sister and all of them are family friends of the petitioner. On enquiry, as to what is meant by 'family friend', it is stated that the father of the said persons and the father of the petitioner were friends. It is further stated that Radhey Lal is suffering

from acute ailments and is undergoing treatment at Dr. Ram Manohar Lohia Hospital and since the accommodation earlier allotted to the petitioner namely Quarter No.45P and the accommodation presently allotted to the petitioner namely Quarter No.45K are close to Dr. Ram Manohar Lohia Hospital, the said persons, on the date of inspection, were visiting the petitioner, while had come to Dr. Ram Manohar Lohia Hospital.

10. However, the petitioner was not present and could not be present as it is admitted that he was at his office on the date of the inspection. The wife of the petitioner was also not present in the quarter. It is not understandable that when neither the petitioner nor his wife, were present in the quarter, whom were the said persons visiting on the date of the inspection.

11. I have enquired in vernacular from the petitioner present in person about his family members. He states that his family comprises of his wife and six children, of which four are married and are not residing with him but two namely Preeti and Sonu and his wife are residing with him in the subject quarter. On enquiry, about the documents showing the address of Preeti and Sonu in their educational records, the petitioner now states that in fact Preeti and Sonu are residing in his village. On enquiry, about his village, he states that his village is in District Faridabad, Haryana and all his children are residing there. Mr. Parashar, Advocate prompts the petitioner to state that the wife of the petitioner travels between village in District Faridabad and the quarter. Now, Mr. Parashar, Advocate states that Preeti, daughter of the petitioner, is also due to be married in November, 2018 and thus the wife of the petitioner travels between the house in the village in District Faridabad and the quarter.

12. On enquiry from the petitioner, the floor on which Quarter No.45P and 45K were/are situated, before the petitioner can answer, Hemant Kumar present in Court answers that Quarter No.45P was on the third floor and Quarter No.45K is on the second floor.

13. Mr. Radhey Lal who is present in Court does not appear to be in a position to, casually for a visit, climb second or third floor, while visiting the Hospital, unless was/is residing therein.

14. What has unfolded in this Court today alone is sufficient for this Court to be satisfied of the petitioner having sublet not only Quarter No.45P earlier allotted to him but also Quarter No.45K now allotted to him.

15. On enquiry, it is also disclosed that Radhey Lal, Hemant Kumar and Ms. Mithlesh are not married and have no children.

16. I have therefore no reason to interfere in exercise of jurisdiction under Articles 226 & 227 of the Constitution of India, with the factual findings of the Estate Officer and of the District Judge, of the petitioner having sublet the accommodation allotted to him. Rather, from the aforesaid it transpires that the petitioner has sworn false affidavit and made false verification while filing this petition and which behaviour does not behove especially from one who is working in the Intelligence Bureau.

17. On enquiry, it is stated that though the respondents have recommended initiation of disciplinary proceedings against the petitioner but the same have to be initiated by the Department in which the petitioner is employed.

18. The petitioner, on enquiry, states that no disciplinary proceedings have been initiated against him.

19. It is expected that the Disciplinary Authority of the petitioner will take a decision in this regard in right earnest.

20. The respondents to forward a copy of this order to the Department with which the petitioner is employed, for compliance.

21. I may also state that the petitioner along with this petition has filed plethora of documents concerning the medical treatment of Radhey Lal. A perusal of those does not show Radhey Lal to have visited Dr. Ram Manohar Lohia Hospital on the date on which inspection of the quarter was carried out and when Radhey Lal and Ms. Mithlesh were found present in the quarter allotted to the petitioner.

22. There is thus no merit in the petition.

23. Dismissed.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 25, 2018

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