

(2008) 02 DEL CK 0221

In the Delhi High Court

Case No : Writ Petition (Civil) No. 1657 of 2008

Ami Chand Prasad

APPELLANT

Vs

The Estate Officer and Another

RESPONDENT

Date of Decision : 29-02-2008

Acts Referred:

Citation : (2008) 02 DEL CK 0221

Hon'ble Judges : Gita Mittal, J

Bench : Single Bench

Advocate : Ravi Kant Jain, for the Appellant; R.V. Sinha, for the Respondent

Judgement

Gita Mittal, J.—This writ petition has been filed by the petitioner who has submitted that he was allotted a flat bearing No. B-2698, Netaji Nagar, New Delhi on account of his employment with the respondent No. 2. He points out that pursuant to the disciplinary proceedings, an order dated 28th December, 2006 directing his removal from service was passed.

2. Based on this removal from service, the respondent cancelled the flat which was allotted to the petitioner on 8th March, 2007 and initiated proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. These culminated in an order of eviction dated 15th May, 2007. The petitioner's statutory appeal against this order was dismissed by an order dated 31st July, 2007.

3. Before this Court, the petitioner has contended that learned Additional District Judge had dismissed the appeal of the petitioner primarily on the ground that the petitioner was unable to produce proof of having appealed against his removal from service. A challenge has been laid to the eviction order dated 8th March, 2007 and the appellate order dated 31st of July, 2007.

4. I have heard learned Counsel for the parties. I find that the cancellation of allotment of the flat in question was effected primarily on the ground that the petitioner stood removed from service. However, these proceedings have not

attained finality inasmuch as the appeal of the petitioner assailing the same was dismissed. The petitioner has assailed these orders of removal from service by way of OA No. 2377/2007 is pending before the Central Administrative Tribunal which is stated to be listed on 22nd April, 2008.

The order of dismissal of the appeal dated 31st July, 2007 is assailed inter alia on the ground that the same has failed to take into consideration the fact that aggrieved by the removal from service, the petitioner had assailed the disciplinary proceedings and the order passed against him before the Appellate Authority. It has also been pointed out that the petitioner has assailed the dismissal of his appeal by appropriate proceedings before the Principal Bench, Central Administrative Tribunal which original application is stated to be listed on 22nd April, 2008.

5. Interest of justice merits that no coercive action for recovery of possession from the petitioner be taken till the final adjudication on the order directing removal of the petitioner from service.

Accordingly, this writ petition is disposed of with the limited relief that the order dated 15th May, 2007 and upheld by the order dated 14th February, 2008 shall not be executed till disposal of OA No. 2377/2007.

In case the Tribunal holds in favour of the petitioner, it shall be open for the petitioner to seek appropriate remedy in respect of the eviction order dated 15th May, 2007 and the order dated 14th February, 2008 based on such order passed in OA No. 2377/2007.

Copy of this order be given dasti to counsel for the parties.