

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

(Through Video Conferencing)

CR No. 43/2020
CM No. 2481/2020
CM No. 2482/2020

Rama Kant

.....Appellant(s)

Through: Mr. Ravinder Sharma, Advocate.
(On video conference/Voice Call from residence)

Vs.

Union Territory of J&K and anr

.....Respondent(s)

Through: Mr. Raman Sharma, AAG.
(On video conference/Voice Call from residence)

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR

ORDER

1. The petitioner in this petition has invoked the power of superintendence of this Court vested by virtue of Article 227 of the Constitution of India to call in question notices bearing No. PEOCHJ/EVC/15/2020/259-62 dated 18.04.2020 and No. PEOCHJ/EVC/15/2020/297-300 dated 02.06.2020, whereby the petitioner has been directed to vacate Quarter No. 04, Block M, Police Housing Colony, Channi Himat Jammu.

2. Briefly put, the facts stated in the petition are that the petitioner is serving as a Follower in J&K Police and was allotted government accommodation in the year 2005 where petitioner claims to be putting up ever since. The petitioner submits that in the year 2019 he was placed under suspension, which suspension was later revoked. He submits that during the period he remained under suspension he was getting only the subsistence allowance and, therefore,

HRA/Rental on account of quarter allotted to him was not drawn by the Drawing and Disbursing Officer and, therefore, he ran into arrears. For the aforesaid reasons the petitioner was served with notice of eviction by the Deputy Superintendent of Police, Estates vide notice dated 18.04.2020 and was given 15 days time to vacate the premises. It is pleaded that the aforesaid order was assailed in appeal by the petitioner before the District Magistrate, Jammu (the Appellate Authority) but due to her preoccupation with COVID-19 lockdown the appeal was not taken up for consideration despite the petitioner having made several requests. While the appeal was yet to be considered by the Appellate Authority, another notice was issued to the petitioner dated 02.06.2020 calling the petitioner to vacate the quarter within seven days. It is thus submitted that due to the extraordinary circumstances prevailing due to lockdown, the petitioner has been prevented from availing the alternate remedy. The respondents, it is submitted, are taking the benefit of prevailing situation and have decided to throw out the petitioner and his family from the quarter forcibly.

3. Having heard Mr. Ravinder Sharma learned counsel for the petitioner and Mr. Raman Sharma, learned AAG for the respondents, I am of the view that, in the prevailing situation where the District Magistrate is highly preoccupied with her other assignments and is not in a position to take up the appeal of the petitioner, the petitioner cannot be rendered remediless. In case the appeal of the petitioner is not heard by the District Magistrate with promptitude, the respondents would throw the petitioner out of possession forcibly and that would render the appeal filed by the petitioner infructuous. The petitioner is a Follower, an employee at the lowest rung of the police establishment and is residing in the quarter along with his family since the year 2005. It is true that because of his suspension for some time he went into arrears of rent payable for use and

occupation of the aforesaid quarter. Keeping in view the totality of the circumstances and the fair stand taken by the learned counsel for the parties, this petition, with the consent of learned counsel for the parties, is admitted and disposed of at this stage by providing as under:-

1. That subject to petitioner's depositing/clearing the entire arrears of rent qua the quarter aforesaid payable as on date within a period of two weeks, the impugned notices of eviction shall not be given effect to and the petitioner and his family shall be permitted to continue to use and to remain in possession of the said quarter.
2. That the protection with regard to the possession of the quarter given to the petitioner by this order shall subsist till the matter is decided by the District Magistrate (the Appellate Authority) on its merits.
3. Nothing said or observed herein above shall be construed as expression of opinion on the merits of the case and the District Magistrate (the Appellate Authority) shall be free to take a view in the matter as may be permissible under law.
4. The petition is disposed of, accordingly, along with connected CMs.

(Sanjeev Kumar)
Judge

Jammu,
05.06.2020
Anil Raina, Addl Registrar/Secy

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No