

COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

19.

OA 214/2023 with MA 1669/2024 & 4428/2024

Capt Saurabh Agarwal Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Ajit Kakkar, Advocate
For Respondents : Mr. K S Bhati, Sr CGSC R-1-4 with
Ms. Kirti Vardhan, Advocate
Mr. Amit Kumar, Advocate R-5

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER
14.08.2025

On behalf of the applicant, it has been submitted that the documents in terms of the direction dated 13.08.2024 had been submitted by the applicant on 05.09.2024 vide Dy No. 8572/2024. Counsel for the respondent No. 5 submits that copy of the said documents have not been received. The same is apparent from the index of the document itself as the copies have been supplied to other official respondents. Copies of the said documents filed on 05.09.2024 thus be supplied to the counsel for the respondent No. 5.

2. In reply to a specific Court query, it is submitted on behalf of the applicant that though the agreement of leave and license placed at pages 29 to 39 on the record of the said document submitted relates to period of 11 months from the date of

execution i.e. 07.12.2023, the stated rate of rent of Rs. 16,000/- is still continuing in relation to the premises at Flat No. 204 Yucca, Nyati Iris, near Corinthians Club, Mohammdwadi, Pune- 411060.

3. The prayers made by the applicant vide the present OA are to the effect:-

“(a) To quash the impugned Order dated 02.01.2023, passed for grant of maintenance allowance to Respondent No.5

(b) To direct the Respondents to stop the maintenance allowance being deducted from the applicant’s salary.

(c) Amount paid in pursuant to the said order be refunded back to the applicant along with an interest of 12% per annum till the date of realization.

(d) To direct the Respondent No. 5 to approach the correct forum for claiming maintenance from the Applicant.

(e) To pass any other appropriate order or relief which this Hon’ble Tribunal deems fit and proper anytime during the proceedings of this case.”

4. As observed the prayers seeking interim relief are to the effect:-

“To grant stay on the Order on the sanctioning of maintenance allowance towards respondent No. 5 till the issue is settled. The applicant would suffer from financial difficulties because of the excessive maintenance granted to Respondent No. 5. The respondent No. 5 falsified the facts in order to claim maintenance from the applicant and the respondents in utter disregard of the law sanctioned an excessive maintenance allowance to the

applicant even though the correct forum for claiming such maintenance is the Civil Court. Therefore, the applicant prays for an Interim stay on the Impugned letter which sanctioned the maintenance allowance to Respondent No. 5.”

5. During the course of proceedings dated 21.05.2024, on behalf of the applicant, it was submitted that the interim prayer made by the applicant relates only to the aspect that the maintenance granted to respondent No. 5 is excessive.

6. A further submission made by the applicant now is that the applicant is not averse to the making of the payment of maintenance both to the respondent No. 5 and to the children, but it is submitted that the applicant seeks the aspect that the respondent No. 5 is also a co-owner of two properties as indicated vide documents as sought to be submitted by the applicant needs to be taken into account by the Naval authorities. It is further submitted on behalf of the applicant that the said aspects be taken into account by the Naval authorities for consideration of the aspect of the grant of maintenance to the respondent No. 5 and to the children of the applicant and respondent No. 5.

7. Counsel for the applicant submits that the applicant shall file an appropriate representation in relation thereto seeking modification of the impugned order dated 02.01.2023. Counsel for the applicant thus seeks to withdraw the present OA seeking liberty to seek redressal by submission of the representation against the impugned order dated 02.01.2023 with the additional

facts *qua* the two properties of the applicant of which applicant submits that respondent No.5 is also a co-owner thereof i.e. the properties at Flat No. 204 Yucca, Nyati Iris, near Corinthians Club, Mohammdwadi, Pune- 411060 as well as the property bearing unit No. D 0904 9th floor Tower-D Amrapali Verona Height, Greater Noida, Uttarpradesh.

8. In view of the said submissions made on behalf of the applicant, OA 214/2023 is dismissed as withdrawn with liberty granted as prayed. The respondent Nos. 1-4 as arrayed to the present OA shall ensure that the respondent No. 5 is called at the time of consideration of such representation, if any, filed by the applicant which be disposed of within a period of two months of the receipt thereof. It would be open to the applicant to seek such redressal as available in accordance with law thereafter.

(JUSTICE ANU MALHOTRA)
MEMBER (J)

(REAR ADMIRAL DHIREN VIG)
MEMBER (A)