



CGHC010039192023



2026:CGHC:31792

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 147 of 2023

1 - Saroj Singh D/o Late G. Thakur Jagram Singh Aged About 50 Years
R/o B. Market, Street No.5, Sector-2, Bhilai Nagar, Durg, District : Durg,
Chhattisgarh

... Petitioner(s)

versus

1 - Additional Divisional Railway Manager And Estate Officer South
East Central Railway, Raipur, District : Raipur, Chhattisgarh

2 - Chief Executive Officer Nagar Palika Kumhari, District : Durg,
Chhattisgarh

... Respondent(s)

For Petitioner(s)	:	Mr. T.K.Jha, Sr. Counsel assisted by Mr. Rohan Kumhare, Advocate
For Respondent(s)	:	Mr. Ramakant Mishra, DSG assisted by Mr. Rishabh Dev Singh, Advocate
For Respondent No.2		None present

(Hon'ble Shri Justice Ravindra Kumar Agrawal)

Order on Board

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The present writ petition has been preferred under Article 227 of the Constitution of India assailing the order dated 28.01.2020 passed by the learned 4th Additional District Judge, Durg in Miscellaneous Civil Appeal No. 43/2017, whereby the appeal preferred by the petitioner came to be dismissed and the order dated 20.09.2017 passed by the Estate Officer, Raipur in Case No. 01/2017 under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 has been affirmed.

2. Learned counsel for the petitioner submits that respondent No.1 initiated proceedings under Section 4 of the Act of 1971 before the Estate Officer seeking eviction of the petitioner from the subject premises. It is contended that although a detailed reply to the show-cause notice was submitted by the petitioner, the same was neither considered by the Estate Officer nor was any evidence recorded before passing the impugned order dated 20.09.2017. It is further contended that the Estate Officer exercised jurisdiction in an arbitrary manner by directing eviction of the petitioner without recording evidence and without considering the documents placed on record.

3. It is further submitted that the appeal preferred by the petitioner before the learned 4th Additional District Judge, Durg was dismissed in a mechanical manner without examining the mandatory provisions of law requiring the Estate Officer to record the evidence of the parties before passing an order of eviction. Learned counsel further submits that the respondents have failed to establish, by any cogent or reliable evidence, that the subject property belongs to the Railways. Even the

spot inspection report does not conclusively indicate that the property is railway property. It is, therefore, contended that in the absence of any legally admissible evidence, the order of eviction could not have been passed. On these grounds, it is prayed that the impugned orders passed by the Estate Officer and affirmed by the learned 4th Additional District Judge, Durg be set aside and the application preferred by respondent No.1 be dismissed.

4. Per contra, learned counsel appearing for respondent No.1 vehemently opposes the submissions advanced on behalf of the petitioner. It is submitted that despite service of repeated notices, the petitioner failed to produce any document establishing her entitlement or lawful possession over the subject premises. Consequently, the Estate Officer, in exercise of powers under Section 4 of the Act of 1971 read with Rule 5 of the Rules of 1971, rightly passed the order of eviction. It is further submitted that before passing the impugned order, the Estate Officer duly considered the documents produced by the petitioner and arrived at the conclusion that she was an unauthorized occupant of railway property and, therefore, liable to be evicted. It is also submitted that the order of the Estate Officer clearly reflects that several opportunities were afforded to the petitioner, yet she failed to produce any document establishing her lawful right over the property. It is further contended that the learned 4th Additional District Judge, Durg independently appreciated the material on record and rightly affirmed the order of the Estate Officer. Since both the authorities have recorded concurrent findings of fact, no interference is warranted in exercise of

supervisory jurisdiction under Article 227 of the Constitution of India, and the writ petition deserves to be dismissed.

5. I have heard learned counsel for the parties at length and perused the documents annexed with the petition.

6. The dispute arises out of an application preferred by respondent No.1 before the Estate Officer seeking eviction of the petitioner from the subject premises. Proceedings were initiated under Section 4 of the Act of 1971 by issuance of notice to the petitioner. The record further reveals that an earlier order dated 17.03.2017 had been passed in Case No. 44/2017 directing eviction of one Jagram Singh Thakur from the same premises. Upon service of notice, the present petitioner, claiming to be the daughter and legal heir of the deceased Jagram Singh Thakur, informed the Estate Officer on 23.05.2017 regarding his demise. Thereafter, notice dated 01.06.2017 was issued to the petitioner fixing 19.06.2017 for her appearance. As she could not appear on the said date, another notice dated 19.06.2017 was issued fixing 28.06.2017 for appearance. On 28.06.2017, the petitioner appeared before the Estate Officer and sought time to file the relevant documents. Accordingly, the matter was adjourned to 14.07.2017. On the said date, although the petitioner did not produce any document evidencing ownership of the subject property, she submitted an application running into 27 pages along with certain documents. Thereafter, upon consideration of the material placed on record, the Estate Officer passed the impugned order dated 20.09.2017. Significantly, the order does not disclose that any evidence of either

party was recorded during the proceedings. Rule 5 of the Public Premises (Eviction of Unauthorised Occupants) Rules, 1971 prescribes the procedure for conducting an enquiry before passing an order of eviction and, therefore, deserves consideration.

“5. Procedure of taking evidence.—

(1) Where any person to whom a notice under section 4 or section 7 has been issued desires to be heard through his representative, he shall authorise such representative in writing.

(2) The Estate Officer shall record the summary of the evidence tendered before him. Such summary shall be read over to the person concerned or his representative, if present, and shall be signed by the Estate Officer and the person concerned or his representative, if present. If the person concerned or his representative refuses to sign the summary, the Estate Officer shall record such refusal.

7. A plain reading of Rule 5 of the Rules of 1971 makes it manifest that where a person served with notice desires to be represented through an authorized representative, such authorization must be in writing. The Rule further obligates the Estate Officer to record the summary of the evidence adduced before him. Thus, the statutory scheme unequivocally contemplates that before passing an order of eviction, the Estate Officer is required to record the evidence of the parties and prepare a summary thereof.

8. However, a careful perusal of the impugned order passed by the Estate Officer reveals that no evidence of either party was recorded before directing eviction. Likewise, the order passed by the learned 4th

Additional District Judge is also conspicuously silent with regard to compliance with the aforesaid mandatory requirement. Consequently, this Court is of the considered opinion that the impugned order dated 20.09.2017 passed by the Estate Officer, Raipur, as affirmed by the learned 4th Additional District Judge, Durg by order dated 28.01.2020, cannot be sustained in law on this ground alone and the matter deserves to be remitted to the Estate Officer for fresh adjudication.

9. Accordingly, the impugned order dated 20.09.2017 passed by the Estate Officer, Raipur in Case No. 01/2017, as well as the judgment and order dated 28.01.2020 passed by the learned 4th Additional District Judge, Durg in Miscellaneous Civil Appeal No. 43/2017, are hereby set aside. The matter is remitted to the Estate Officer, Raipur for fresh adjudication after affording due opportunity of hearing to all concerned parties in accordance with law and the provisions of the Act and Rules of 1971, preferably within a period of six months from the date of receipt of a certified copy of this order.

10. The parties are directed to appear before the Estate Officer, Raipur on 05.08.2026. It is expected that the parties shall not seek unnecessary adjournments during the course of the proceedings and shall extend full cooperation for expeditious disposal of the matter.

11. Registry is directed to transmit the records of the concerned courts forthwith.

Sd/-
(Ravindra Kumar Agrawal)
Judge