

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 16.11.2017****Delivered on 23.11.2017****Writ Appeal No. 370 of 2017**

(Arising out of order dated 30.08.2017 in Writ Petition (C) 2361/2017)

- Premlata Shrivastava W/o Parmanand Aged About 53 Years R/o Ward No. 23, Jawaharpara, Champa, District Janjgir Champa Chhattisgarh

**---- Appellant****Versus**

1. South Eastern Central Railway, Through – Chairman-Cum Managing-Director, South Eastern Central Railway, Head Quarters, Bilaspur, Chhattisgarh
2. Senior Divisional Engineer (East), South Eastern Central Railway, Senior Divisional Engineer (Coordination) Office, Titli Chowk, Railway Settlement, Bilaspur, Chhattisgarh
3. Senior Section Engineer (Works), South Eastern Central Railway, Champa, District Janjgir Champa, Chhattisgarh

**---- Respondents**


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| For Appellant   | : Shri Goutam Khetrapal, Advocate. |
| For Respondents | : Shri R.S. Patel, Advocate.       |

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**Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice****Hon'ble Shri Sharad Kumar Gupta, Judge****CAV JUDGMENT****Per Sharad Kumar Gupta, Judge**

1. In this writ appeal, the challenge levied is to the order dated 30.08.2017 passed by learned Single Judge in Writ Petition (C) No. 2361/2017 whereby and whereunder the said writ petition has been dismissed.

2. It is admitted by the respondents that shop Nos. 11 & 12 in railway market at Champa Railway Station were allotted to the father of the appellant i.e. Late Pyarelal Shrivastava, on temporary licence basis in the year 1975. The licence agreement was

renewed upto year 1990. They had given notice to the appellant for vacating the aforesaid shops. The appellant had earlier preferred a writ petition in which the learned Single Judge had passed order on 03.07.2017 (Annexure P/7) in which the respondents have been directed to consider the reply of the appellant and decide the matter after hearing the appellant in accordance with law. The appellant made a representation which has been rejected by the respondents vide Annexure P1 dated 09.08.2017.

3. In brief, the appellant's case is that her father died in the year 2007. After death of her father, she applied for transfer and renewal of the licence in her name but the respondents did not consider her case instead considered her as unauthorised occupant and termed her possession nothing but an encroachment. Annexure P/1 has been passed violating the Master Circular dated 10.02.2005 (Annexure P/8).

4. In brief, the respondents' case is that the possession over that shops of the appellant is illegal and unauthorised. As per the Railway Board's guideline, the said licence has not been renewed in the name of the appellant. After removal of the unauthorised occupants and encroachers, the area will be developed according to the Railway's present and future expansion plan. Champa is a 'A' Grade category Railway Station. The traffic, passengers pressure, congestion are increasing day by day. No licence has been issued in the name of the appellant.

5. The appellant being aggrieved with the order Annexure P/1, had preferred the writ petition which had been dismissed by

the learned Single Judge vide the impugned order (Annexure A/1).

6. Shri Goutam Khetrapal, counsel for the appellant argued that the appellant cannot be treated either as encroacher or as unauthorised occupant. Thus, the impugned order is bad in the eyes of law and not sustainable. Hence, it may be set aside.

7. Shri R.S Patel, counsel for the respondents submitted that the impugned order passed by the learned Single Judge is just and proper and has been passed in accordance with law. Thus, no interference is called for.

8. This is not the appellant's case that the respondents have issued the licence for the said shops in her name. This is her case that the earlier licence which has been issued in the name of her father has not been transferred and renewed by the respondents in her name.

9. It would be noteworthy to mention the provisions of clauses 2.2 and 2.4 of Annexure P/8, which reads as under:-

“2.2 Temporary licensing of railway land to private individuals for the purpose of setting up shops, commercial offices, vending stalls, clinics etc. not connected with the Railway working was stopped in terms of Board's letter No. 80/W2/18/0/A dated 7.6.1984. This ban will continue. In exceptional cases, where such licensing may have to be done with the prior approval of the Board, licence fee must be fixed by resorting to public auction/open tenders for getting the maximum revenue.

2.4 Licenses of existing licencees, not connected with the Railway working as mentioned in Para 3 (f) below

may, however, be renewed from time to time so long as the land is not required by Railway for its own purpose but on new terms and conditions indicated in this letter.”

10. Champa is a 'A' Grade category Railway Station. From day by day experience, we know that traffic, passengers pressure and congestion near the Railway Station is increasing, which are creating inconvenience to the public. There is no material on record on the strength of which it could be said that, aforesaid stand taken by the respondents is not genuine or fictitious or without any concrete base.

11. Looking to the above mentioned facts and circumstances, this Court finds that Annexure P/1 does not violate any provision of law and it is in accordance with Annexure P/8. Thus, the learned Single Judge has not committed any error while passing the impugned order.

12. Looking to the aforesaid facts and circumstances of the case, we agree with the reasoned impugned order of the learned Single Judge and affirm the same.

13. On the corner stone of the aforesaid facts and circumstances, we conclude that there is no substantial issue raised in this appeal calling for interference in the impugned order. Hence, this writ appeal deserves to be and is hereby dismissed.

14. No order as to costs.

Sd/-

(Thottathil B. Radhakrishnan)  
**Chief Justice**

Sd/-

(Sharad Kumar Gupta)  
**Judge**