

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6463 of 2016

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1. Ramprit Pandit Son of Sri Chandeshwar Pandit, Resident of Village-Daulatpur, Post- Mokhtapur, District- Samastipur, Bihar.
 2. Ranju Kumari Wife of Sri Ranjit Kumar, Resident of Vill.- Mannipur, Post-Sari, District- Samastipur, Bihar.
 3. Md. Insha Anshari, Son of Md. Khalil Ansari, Resident of Vill.- Daulatpur, Post- Marutpur, District- Samastipur, Bihar.

... .. Petitioners

Versus

1. The Union of India through the Secretary, Railway Board, Rail Bhawan New Delhi.
2. Divisional Railway Manager (Engineer), East Central Railway, Samastipur.
3. Assistant Mechanical Engineer 1st Darbhanga.
4. Divisional Engineer East Central Railway, Samastipur.
5. Divisional Zonal Manager, Sonapur Division, Hazipur.
6. Senior Section Engineer, Works, East Central Railway, Darbhanga.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Dr. Ratan Kumar, Advocate
For the Railways	:	Mr.D.K. Sinha, Sr. Advocate
		Mr.Amaresh Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 24-09-2019 Heard learned counsel for the petitioners and learned Senior Counsel assisted by learned Advocate on record on behalf of the Railways.

The petitioners in the present case are the licensees of the allotted shops from the Northern Eastern Railway, Samastipur. It is not in dispute that they were allotted the shops almost 30 years back. It is the case of the petitioners that they were paying the rent/license fee as was fixed by the Railways



from time to time but all of a sudden in the year 2016 the Railways came out with a demand notice calling upon the petitioners to pay outstanding rent/license fee on the revised rate. According to the Railways the revision had taken place in the year 1995 itself and the same was within the knowledge of the petitioners but the petitioners have emphatically denied the same and have submitted that the revision in the rent/license fee in the year 1995 had never been brought to the notice of the petitioners.

Learned counsel for the petitioners submits that the petitioners have submitted a representation as contained in Annexure '3' series to the Divisional Railway Manager, East Central Railway, Samastipur but the same has not been considered.

The grievance of the petitioners is that on the one hand their representations against the demand is not being considered and at the same time the petitioners have been threatened to be forcefully evicted by taking recourse to the provisions of the Land Encroachment Act, 1971. Learned counsel submits that by no stretch of imagination the petitioners may be said to be an encroacher.

Reliance has been placed upon a judgment of learned



Co-ordinate Bench of this Court in the case of **Raj Kumar Jha and others versus The Union of India and others** (C.W.J.C. No. 9819 of 2016) decided on 21.03.2017, learned counsel submits that the learned Co-ordinate Bench of this Court has held in the case of Railways itself that there cannot be an enhancement of rent with retrospective effect. Thus, it is his contention that the case of these petitioners will also be considered in the light of the judgment of this Court rendered in the case of **Raj Kumar Jha and others** (supra).

Learned counsel for the petitioners submits that the petitioners are ready to deposit the entire amount of outstanding if it is calculated by giving effect to the revised rate prospectively.

Learned Senior Counsel representing the Railways submits that keeping in view the submission of learned counsel for the petitioners and the judgment of the learned Co-ordinate Bench of this Court in the case of **Raj Kumar Jha and others** (supra) the competent authority of the Railways shall consider the representation of the petitioners as contained in Annexure '3' series and will take an appropriate view of the matter as early as possible.

Learned Senior Counsel further submits that so far as



the right of the Railways to evict the petitioners from the premises in question is concerned, the same cannot be interfered with as the Railways would have always liberty to seek its remedy for eviction against these petitioners by following the established procedure of law. Learned Senior Counsel has, however, submitted that the petitioners shall not be forcefully thrown out by applying force unless there is any order of a competent court/tribunal/authority in accordance with law.

In the given facts and circumstances of the case, this writ application is being disposed of with a direction to the competent authority of the Railways to consider the representations of the petitioners as contained in Annexure '3' series in the light of the judgment of the learned Co-ordinate Bench of this Court in the case of **Raj Kumar Jha and others** (supra). The demand against the petitioners shall be revised keeping in view the aforesaid judgment of the Court and the petitioners shall be given appropriate time to pay the outstanding amount as per revised demand notice.

Till such time no coercive action shall be taken against the petitioners to evict from the premises in question provided the petitioners continued to pay current rent/license fee as per the revised rate. In terms of their own statement the



Railways shall not use any force to evict the petitioners overnight. It would, however, be always open to Railways to take appropriate action in accordance with law for eviction of the petitioners.

The writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

vats/ved

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