

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8604 of 2020

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Bharat Kumar Agarwal @ Bharat Kumar Son of Nand Lal Barbariya Resident of A-2/701, Nandanvan-2, VIP Road, VESU, Near Balaji Villa, Surat City, Surat, Gujarat-395007 through his Power of attorney holder namely Deep Chandra Barbariya Male aged about 46 Years Son of Shri Nand Lal Barbariya resident of Ward NO.5, Deepmala, Hasanpur Bazar, Rampur Razawa, Hasanpur Sugar Mill, P.S. Hasanpur, Samastipur.

... .. Petitioner/s

Versus

1. The Union of India through the Chairman, Railway Board, Ministry of Railways New Delhi.
2. The Director, Land and Amenities, Railway Board, Ministry of Railways, New Delhi.
3. The General Manager, East Central Railway, Zonal Officer Hazipur, Vaishali.
4. The Divisional Railway Manager, East Central Railway, Samastipur Division, Samastipur.
5. The Assistant Divisional Engineer, East Central Railway, Samastipur.
6. The Senior Section Engineer, (Works) Line, Eastern Central Railway, Samastipur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8607 of 2020

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Kamlesh Kumar alias Kamlesh Kumar Barbariya Son of Kashi Prasad Barbariya resident of Ward No. 5, Hasanpur Bazar, Hasanpur Sugar Mill, P.S. Hasanpur, Samastipur - 848205 (Represented By His Authorised Representative Cum Care Taker Kushum Devi Agrawal) through her power of attorney holder namely Sanjay Kumar Barbariya male aged about 50 years son of Shri Gopal Prasad Barbariya resident of Ward No. 3, Hasanpur Bazar, Rampur Razawa, Hasanpur Sugar Mill, P.S. Hasanpur, Samastipur.

... .. Petitioner/s

Versus

1. The Union of India through the Chairman, Railway Board, Ministry of Railways New Delhi.
2. The Director, Land and Amenities, Railway Board, Ministry of Railways, New Delhi.
3. The General Manager, East Central Railway, Zonal Office Hazipur, Vaishali.
4. The Divisional Railway Manager, East Central Railway, Samastipur Division, Samastipur.
5. The Assistant Divisional Engineer, East Central Railway, Samastipur.



6. The Senior Section Engineer, (Works) Line, Eastern Central Railway, Samastipur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8608 of 2020

Sujeet Kumar Barbaria @ Sujeet Kumar Son of Gopal Prasad Barbaria Resident of Ward No.3 Road, Hasanpur Bazar, Rampur Rajawa P.S. Hasanpur, Samastipur-848205 through his Powe of attorney holder namely Anil Kumar male aged about 55 Years Son of Late Ram Nivas Agrawal resident of Ward NO.3, Hasanpur Bazar, Rampur P.S. Hasanpur, Samastipur.

... .. Petitioner/s

Versus

1. The Union of India through the Chairman, Railway Board, Ministry of Railways New Delhi.
2. The Director, Land and Amenities, Railway Board, Ministry of Railways, New Delhi.
3. The General Manager, East Central Railway, Zonal Office Hazipur, Vaishali.
4. The Divisional Railway Manager, East Central Railway, Samastipur Division, Samastipur.
5. The Assistant Divisional Engineer, (Works) Line, Eastern Central Railway, Samastipur.
6. The Senior Section Engineer, (Works) LIne, Eastern Central Railway, Samastipur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8618 of 2020

Nand Kumar Agrawal Son of Late Niranjana Agrawal now represented by his grandson and legal heir Vikash Kumar Ararwal through his Power of attorney Holder Namely Sanjay Kumar Barbbariya Male aged about 50 Years Son of Shri Gopal Prasad Barbbariya resident of Ward No. 3, Hahasanpur Bazar, Rampur Razawa, Hasanpur Sugar Mill, P.S. Hasanpur, Samastipur.

... .. Petitioner/s

Versus

1. The Union of India thorough the Chairman, Railway Board, Ministry of Railways New Delhi.
2. The Director, Land and Amenities, Railway Board, Ministry of Railways, New Delhi
3. The General Manager, East Central Railway, Zonal Office Hazipur, Vaishali,
4. The Divisional Railway Manager, East Central Railway, Samastipur, Division, Samastipur.



5. The Assistant Divisional Engineer, East Central Railway, Samastipur.
6. The Senior Engineer, (Works) Line, Eastern Central Railway, Samastipur

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 8604 of 2020)

For the Petitioner/s : Mr.Gautam Kumar Kejriwal
For the Respondent/s : Mr.Dr. K.N. Singh (AG)
: Mr.Bijoy Kumar Sinha

(In Civil Writ Jurisdiction Case No. 8607 of 2020)

For the Petitioner/s : Mr.Gautam Kumar Kejriwal
For the Respondent/s : Mr.Dr. K. N. Singh (Asg)
: Mr.Siddharth Prasad

(In Civil Writ Jurisdiction Case No. 8608 of 2020)

For the Petitioner/s : Mr.Gautam Kumar Kejriwal
For the Respondent/s : Mr.Dr. K.N. Singh (Asg)
: Mr.Abbas Haider

(In Civil Writ Jurisdiction Case No. 8618 of 2020)

For the Petitioner/s : Mr.Gautam Kumar Kejriwal
: Mr.Alok Kumar Jha
: Mr.Prakash Chandra Agarwal
: Mr.Pawan Kumar Singh
For the Respondent/s : Mr.Dr. K.N. Singh (Asg)
: Mr.Siddharth Prasad

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 06-11-2020 Similar dispute, which the present batch of four writ applications have, was admittedly involved in C.W.J.C. No. 18109 of 2018 (*Vijay Sah v. Union of India and others*), disposed of by an order of this Court dated 04.11.2019 in following terms, which reads thus:-

“Heard learned counsel for the petitioner and the Railways.

A counter affidavit has been filed on behalf of respondents-Railways. Learned counsel for the petitioner submits that he is not required to file any rejoinder thereto and the matter may be heard and disposed off on the basis of materials available on the record.



After hearing learned counsel for the petitioner and learned counsel for the Railways and upon perusal of the statements made in the counter affidavit, this Court is of the considered opinion that the petitioner has submitted a copy of representation as contained in Annexure '4' to the writ application to the General Manager, East Central Railway, Hajipur, Vaishali who will look into the grievance of the petitioner, shall examine all these issues raised by him and shall take an appropriate decision with an intention to amicably resolve the dispute in terms of the agreement. In case the dispute cannot be resolved amicably, the parties may invoke the relevant provision of the agreement which talks of resolution of dispute through arbitration. In this regard it has been submitted that although in Clause 24, the General Manager, East Central Railway has been named as 'विवाचक' (Arbiter), now in view of the amendment of the Arbitration and Conciliation Act, 1996, he cannot act as Arbitrator. At this stage, this Court would only observe that in case the parties have, in terms of Clause 24, decided to get the matter resolved through arbitral process, it will be open for them to agree on the mode of appointment of the Arbitrator if occasion so arises. Till a decision is taken by the General Manager, East Central Zone, Hajipur on the representation of the petitioner, no coercive action shall be taken against him to forcibly evict from the premises. The writ application stands disposed off."

Learned counsel for the petitioners submits that



these applications may also be disposed of, in terms of the said order dated 04.11.2019 in case of *Vijay Sah* (supra). Mr. Siddharth Prasad, learned counsel representing the respondents-Railway has no objection to such submission.

These applications are accordingly disposed of with the same direction observations, as in the said order dated 04.11.2019 (supra).

It is further observed that, till a decision is taken by the General Manager, East Central Railway, Hajipur, on the representations of these petitioners, no coercive action shall be taken against them, for forcibly evicting them, from the premises, on the ground of non-payment of the demand based on revised licence fee, if the representations are filed within six weeks from today.

(Chakradhari Sharan Singh, J)

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