

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8699 of 2020

Manoj Kumar @ Manoj Kumar Barbariya Son of Nand Lal Barbariya
Resident of Ward No.5 Road, Hasanpur Bazar, Rampur Rajawa P.S. Hasanpur,
Samastipur-848205 through his Power 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, East Central Railway, Samastipur.
6. The Senior Section Engineer, (Works) Line, Eastern Central Railway, Samastipur.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 03-02-2021 Heard learned counsel for the petitioner and the respondents.

Mr. Gautam Kumar Kejriwal, learned counsel for the petitioner submits that the issue raised in the present application is no more res integra, as the similar issue was decided in C.W.J.C. No. 18109 of 2018 (**Vijay Sah Vs. Union of India and others**) vide order dated 04.11.2019. The relevant part of the order is quoted herein below:



“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."

In order to maintain consistency, the present writ application is also disposed of in similar terms.

(Anil Kumar Upadhyay, J)

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