

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1347 of 2018**

Sri Ram Prasad @ Sri Ram Prasad Gupta, Son of Late Mahavir Prasad @ Mahavir Sah, Resident of Village- Hansrajpur, P.S.- Ekma, P.O.- Ekma, District- Saran.

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, North Eastern Railway, Gorakhpur, (Uttar Pradesh).
2. The Estate Officer, North Eastern Railway, Varanasi (Uttar Pradesh).
3. The General Manager, North Eastern Railway, Gorakhpur (Uttar Pradesh).
4. The Chief Inspector of Works (C.I.O.W.), North Eastern Railway, Siwan Bihar.
5. The Senior Section Engineer (Works), North Eastern Railway, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prashant Sinha, Advocate

For the Union of India : Mr. Praveen Kumar Sinha, Senior Panel Counsel
(For all respondents)

**CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT**

Date : 24-07-2023

Heard learned counsel for the parties.

2. This Civil Miscellaneous Application has been filed against the order dated 20.02.2018 passed by the learned 2nd Additional District Judge, Saran at Chapra in Miscellaneous Appeal No. 29 of 2013 whereby the appeal preferred by the petitioner under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 has been rejected.



3. Brief facts of the case are that a shop on a Railway land near Ekma Railway Station was settled in favour of one Prabhu Nath Singh, whose licence was cancelled on 15.10.2004. It is claimed by the petitioner that the said shop was settled in favour of the petitioner in 1979 and the petitioner was paying rent for the premises regularly to the concerned authority. Petitioner was issued with a notice by the Estate Officer, North Eastern Railway, Varanasi on 12.09.2012 intimating that a proceeding initiated under the P.P. Act has been initiated and it was informed that Rs. 21,280/- has been fixed as arrears of damage amount from 01.04.2005 to 31.03.2012 plus Rs. 2,000/- per year till the date of vacation of premises. The Estate Officer in Case No. 04 of 2012 vide order dated 21.05.2013 held that the petitioner is unauthorized occupant of the premises and directed the petitioner to pay the damages and vacate the same.

4. The petitioner preferred appeal vide Miscellaneous Appeal No. 29 of 2013. The Railways authorities replied and stated that the shop concerned was never allotted in favour of the petitioner rather the same was allotted to one Prabhu Nath Singh who has paid rent up to 2005 and his licence has already been cancelled. The said appeal was dismissed vide order dated 20.02.2018 by the 2nd Additional District Judge, Saran at Chapra



against the said order, this Civil Miscellaneous Application has been filed by the petitioner.

5. Learned counsel for the petitioner submits that the petitioner was not unauthorized occupant but the shop concerned was settled in his favour although the said document is not available with the petitioner but rent receipt was issued in favour of the petitioner by the Railways authorities. He further submits that the petitioner is dependent on the shop for the purpose of his livelihood and eviction from the premises will affect his livelihood.

6. On the other hand learned counsel for the respondents submits that respondents have not granted any legal authorization like lease or licence in favour of the petitioner. Only on the basis of receipt of the payments of the rent cannot be treated as valid document for the licence. The licence or lease paper is necessary for the authorized possession. The petitioner who was labour/servant of Prabhu Nath Singh. Earlier, licensee cannot become licensee himself without following the rule and regulation for getting licence of the shop land in question and he cannot be presumed authorized occupants. Petitioner is an unauthorized occupant of the shop. There is no illegality in the impugned order



which has been passed after considering the facts and circumstances of the case.

7. The Public Premises (Eviction of Unauthorized Occupants) Act, 1971 was enacted for the purpose of providing a speedy machinery for eviction of unauthorized occupants of public premises but in the present case there is inordinate delay in starting proceeding to vacate the unauthorized occupant of the Railway property.

8. Having heard learned counsel for the parties and on perusal of the materials on record including the impugned order, it appears that the specific case of the respondents that the petitioner was not allotted the shop in question, he is an unauthorized occupant, no document has been produced by the petitioner to show that the said shop was allotted to him. The learned Court below further observed that only the receipt of payment of rent cannot be the basis of the allotment of the Government property.

9. The impugned order is a reasoned order and there is no illegality or jurisdictional error and there is no valid ground for interference by this Court under Article 227 of the Constitution of India. The application is devoid of merit and liable to be dismissed.



10. This Civil Miscellaneous Application is, accordingly,
dismissed.

(Sunil Dutta Mishra, J)

Anand Kr.

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

