

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9199 of 2013

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Jagdeep Singh S/O Late Harihar Singh R/O Mohalla- Sachipatti, P.S- Town,
Hajipur, District- Vaishali.

... .. Petitioner/s

Versus

1. The Union Of India through the General Manager, Eastern Central Railway, Hajipur
2. The General Manager, East Central Railway Hajipur.
3. The Divisional Rail Manager, East Central Railway, Sonapur.
4. The Divisional Rail Manager, Engineer, East Central Railway, Sonapur.
5. The Assistant Divisional Fin. Manager, East Central Railway, Sonapur.
6. The Divisional Engineer Special, East Central Railway, Sonapur.
7. The Assistant Divisional Engineer Line, East Central Railway, Sonapur.
8. The Senior Section Engineer Work, East Central Railway, Hajipur.
9. The Section Engineer Works, Hajipur, East Central Railway, Hajipur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 9201 of 2013

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Jagdeep Singh S/O Late Harihar Singh R/O Mohalla- Sachipatti, P.S- Town,
Hajipur, District- Vaishali.

... .. Petitioner/s

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1. The Union Of India, through the General Manager, Eastern Central Railway, Hajipur
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7. The Assistant Divisional Engineer Line, East Central Railway, Sonapur.
8. The Senior Section Engineer Work, East Central Railway, Hajipur.
9. The Section Engineer Works, Hajipur, East Central Railway, Hajipur.

... .. Respondent/s

=====

Appearance :

(In Civil Writ Jurisdiction Case No. 9199 of 2013)

For the Petitioner/s : M/s Birju Prasad



Ajit Anand
Shweta Anand, Advocates
For the Respondent/s : M/s Manoj Kumar Singh, CGC
(In Civil Writ Jurisdiction Case No. 9201 of 2013)
For the Petitioner/s : M/s Birju Prasad
Ajit Anand
Shweta Anand, Advocates
For the Respondent/s : Mr. Alok Kumar Agrawal, Sr.Panel Counsel, UOI

**CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA
CHAKRAVARTHY**

ORAL JUDGMENT

Date : 22-04-2024

**Re. I.A. no. 2 of 2024 In C.W.J.C. No. 9199 fo
2013)**

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The application was filed for substitution of the
deceased sole petitioner, who died on 14.04.2023 leaving behind
his legal heir, who is his son, namely, Vinod Kumar as details
mentioned in paragraph no. 2 of the petition.

3. The name of the sole petitioner who died on
14.04.2023 is directed to be expunged from the records of the
writ petition and to be substituted by the legal heir, details of
whom have been given in paragraph no. 2 of the petition.

4. I.A. no. 2 of 2024 stands disposed of.

5. In view of the fact that learned counsel for the



petitioner has filed vakalatnama on behalf of the legal heir of the deceased petitioner. There is no need to issue notice.

6. It is relevant to mention here that in both the aforesaid writ petitions i.e. CWJC No. 9199 of 2013 and CWJC No. 9201 of 2013, writ petitioner was the same, therefore, the name of the sole petitioner, namely, Jagdeep Singh, who died on 14.04.2023 is directed to be expunged from the records of both the aforesaid writ petitions and to be substituted by the legal heir, details of whom have been given in paragraph no. 2 of the I.A. No. 2 of 2024 in CWJC No. 9199 of 2023.

7. Office is directed to incorporate the name of the substituted legal heir in both the writ petitions as well as in computer system also.

Re. CWJC No. 9199 of 2023 and CWJC No. 9201 of 2023

8. Identical issues being involved in both the matters and the same were considered, for which a common order, is being passed.

9. However, there is a slight variation of Railway Plot Number, hence for better appreciation of the case reliefs prayed for by the petitioner are quoted hereinbelow:

10. CWJC No. 9199 of 2013 has been filed for the



following reliefs:

i) For setting aside the impugned letter No.w/1-1/Dukan/(Annexure-4) issued by the senior section Engineer (Work), East Central Railway, Hajipur under his signature dated 18.02.13 where by information has been given to the Petitioner that 200 Sq.fit of Railway plot No.D/5 at Jouhari Bazar, Hajipur already given to the Petitioner through the Agreement/Licence 01.02.1983 on (Annexure-1) for operating General store and Pan ki Dukan has been cancelled since 04.09.2002 and further directed to vacate the said plot within three days from date of its receiving.

ii) For set aside the letter No. w/1-1 Encroachment dated 11.04.2013 issued by the senior section Engineer (work), East Central Railway, Hajipur (Annexure - 6) whereby the Petitioner is directed to vacate the Railway Plot No D/5, before 30.04.2013 otherwise it will be vacated on 30.04.2013 by the Assistant Divisional Engineer (Line) Sonpur (Respondent No.7)

iii) For directing the Respondent authority to produce the order before the Hon'ble Court where by aforesaid allotted plot of the Petitioner has been cancelled since 04.09.2002 and further be pleased to set aside the said order which has not been served to the Petitioner as yet.

iv) For directing the respondent authorities to produce the order/ letter before the Hon'ble Court by which licensee fee/rent of the serial plot/shop was enhanced retrospectively since 01.01.1996 (Not served) and after the further be pleased to set aside the same.



v) For directing the respondent authorities to refund the excess amount to the Petitioner which has been paid by the Petitioner due to revision of rent with retrospective effect from 01.01.1996 or to adjust the said amount in the future License fee.

vi) For restraining the respondent authorities to take any action pursuant to the impugned letters which contained in Annexure-4 and 6 to this writ petition and further be pleased to stay the same during pendency of this case.

vii) For grant of any other relief/reliefs as the Petitioner is entitled for in the eye of law.

11. Whereas CWJC No. 9201 of 2013 has been filed for the following reliefs:

(i) For setting aside the impugned letter No.w/1-1/Dukan/(Annexure-4) issued by the senior section Engineer (Work), East Central Railway, Hajipur under his signature dated 18.02.13 where by information has been given to the Petitioner that 200 Sq.fit of Railway plot No.D/3 at Jouhari Bazar, Hajipur already given to the Petitioner through the Agreement/Licence 01.02.1983 on (Annexure-1) for operating General store and Pan ki Dukan has been cancelled since 04.09.2002 and further directed to vacate the said plot within three days from date of its receiving.

ii) For set aside the letter No. w/1-1 Encroachment dated 11.04.2013 issued by the senior section Engineer (work), East Central Railway, Hajipur (Annexure - 6) whereby the Petitioner is directed to vacate the Railway Plot No D/3, before



30.04.2013 otherwise it will be vacated on 30.04.2013 by the Assistant Divisional Engineer (Line) Sonpur (Respondent No.7)

iii) For directing the Respondent authority to produce the order before the Hon'ble Court where by aforesaid allotted plot of the Petitioner has been cancelled since 04.09.2002 and further be pleased to set aside the said order which has not been served to the Petitioner as yet.

iv) For directing the respondent authorities to produce the order/ letter before the Hon'ble Court by which licensee fee/rent of the serial plot/shop was enhanced retrospectively since 01.01.1996 (Not served) and after the further be pleased to set aside the same.

v) For directing the respondent authorities to refund the excess amount to the Petitioner which has been paid by the Petitioner due to revision of rent with retrospective effect from 01.01.1996 or to adjust the said amount in the future License fee.

vi) For restraining the respondent authorities to take any action pursuant to the impugned letters which contained in Annexure-4 and 6 to this writ petition and further be pleased to stay the same during pendency of this case.

vii) For grant of any other relief/reliefs as the Petitioner is entitled for in the eye of law.

12. The brief facts culled out of petition(s) are that on 01.02.1983 agreements/Licenses were made between the President of India representing the North Eastern Railway Administration acting through the District Engineer, North



Eastern Railway Sonapur, who is the Licensor and the Petitioner(s) being the Licensee by which 200 sq. ft. land (shop) of Railway Plot No. D/5 and D/3 respectively at Jauhari Bazar, Hajipur were given to the petitioner(s) for operating the shop of “General store” and “Pan ki Dukan”. Pursuant to the aforesaid Agreements/Licenses the original petitioner was running the shop in the aforesaid land to the satisfaction of the administration, by paying annual rent of Rs 360/- per month, since 01.02.1983. On 08.02.2010, the respondent authorities revised the rent of said shops for Rs. 3780/- from 01.01.1996 and the Petitioner deposited the said amount on 08.02.2010. It is also the contention in the writ petition(s) that no notice was issued to him (original petitioner) for enhancement of rent, inspite of the petitioner(s) approaching the authorities several times. As demanded by the respondent authorities, in terms of the said enhancement, the Petitioner of CWJC No. 9199 of 2013 deposited the rent of the said shop (D/5) for Rs. 2860/- and in CWJC No. 9201/2013 Rs. 2111 for shop (D/3) from January 2010 to March 2011. The Petitioner submitted several representations to the respondent No. 4 and lastly on 11.06.2011 requested them to serve the authority letter/Order whereby the rent of his shop was enhanced since



01.01.1996. On 21.02.13 the petitioner was served with the letter No. w/1-1/Dukan dated 18.02.2013 issued by the Senior Section Engineer (work), East Central Railway, Hajipur under his signature where by information was given to him that 200 sq.ft. or Railway plot No D/5 (in CWJC No.9199/2013) and Railway Plot No. D/3 (in CWJC No. 9201/2013) at Jauhari Bazar, Hajipur which was given to him by License dated 01.02.1983 has been cancelled since 04.09.2002 and, therefore, directed to vacate the plot. The present writ application is filed challenging the impugned order of cancellation.

13. It is the contention of the learned counsel for the petitioner that the impugned order is arbitrary and illegal in nature. The enhancement of license fee with retrospective effect for the last 16 years i.e. from 1996 is contrary to law and, therefore, prayed to set aside the impugned order i.e. the order of cancellation of the licence. It is further contended by the learned counsel for the petitioner that this Court was pleased to pass order in C.W.J.C. No 18673 of 2012 dated 04.10.2012 to the similarly situated persons by which the shop of the petitioner was not vacated and, therefore, prayed to pass the similar order in his favour.

14. On the other hand a detailed counter affidavit has



been filed by the respondents, denying all the allegations made in the writ petition. It is the specific contention in the counter affidavit that the licensor is required to be needed the Railway land plot for construction of Railway accommodations/quarters/several offices for the officers of the Railways and, therefore, the Railways have the liberty to terminate the licence under Clause 11 of the agreement and, therefore, 30 days notice was issued to the petitioner which was received by one "Birju Kumar" on behalf of the the petitioner on 12.09.2002 (Annexure A) as well as on 11.4.2013 (Annexure 6) of the counter affidavit.

15. Clause 12 of the agreement specifically laid down that the privilege mentioned in Clause 1 of the agreement was granted on the express condition that either party will be at liberty to determine/put and end to the licence of the petitioner without assigning reason by giving notice to either party in any time in three calendar months. Further Clause 14 of the contract agreement laid down that the Railway administration may retake and absolutely retain possession of the aforesaid railway land plot in question as to transpire from Annexure 1 of the writ petition itself. A notice vide letter No. W/214/Dukan/Hajipur/W5 dated 4.9.2002 has been issued to



the petitioner which was received by one “Birju Kumar” and, therefore, prayed to dismiss the writ petition as it is devoid of merits.

16. This Court initially has passed interim order dated 30.04.2013 directing the respondents not to take any coercive steps against the petitioners. Admittedly, the licences were granted to the petitioner(s) way back in the year 1983 and the said licences were cancelled on 18.02.2013 and the petitioner(s) is enjoying the properties of Railways, by virtue of the interim order of this Court dated 30.04.2013.

17. By virtue of the interim order dated 30.4.2013 the petitioner(s) is in possession of the land/shop for about 40 years. The licence cannot be the matter of right for the legal heirs of petitioner(s) to further continue for the said land/shop-. It is made clear that the even the licence cannot be transferred to the legal heirs and licence cannot be inheritable to the legal heir, therefore, the licences/agreements granted to the original petitioner i.e., Jagdeep Singh, comes to the end at the death of the original petitioner. Therefore, this Court do not find any merit or infringement of the fundamental right of the petitioner(s) i.e. the legal heir of Jagdeep Singh so as to grant any relief under Article 226 of the Constitution of India.



18. Therefore, both the aforesaid writ petitions are dismissed as devoid of merits.

19. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.05.2024
Transmission Date	

