

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2836 of 2024

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Ramesh Kumar Son of Late Laxmi Narayan Having Place of Business and Resident of Department Store Building, Station Road, Gaya, P.S.-Kotwali, District-Gaya

... .. Petitioner/s

Versus

1. Senior Divisional Engineer (II) East Central Railway DDU, DDU, U.P.
2. The Divisional Superintendent, East Central Railway, Danapur, District - Patna.
3. The Chief Engineer, Eastern Railway, Kolkata, Currently Under the Jurisdiction of Hajipur, District Vaishali (Bihar)
4. Divisional Superintendent, Eastern Railway, Danapur, Currently Known as Divisional Superintendent, east Central Railway, DDU (U.P.)
5. The General Manager, Eastern Railway, Kolkata Currently Under the Jurisdiction of Hajipur, District-Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Alka Singh, Adv.
For the Respondent/s	:	Mr. Additional Solicitor General
For the Railways	:	Mr. Alok Kumar, CGC

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 19-02-2025

Heard the learned counsel for the parties.

2. This writ petition has been filed for the following relief(s):-

“I. The present writ application is filed in the nature of Certiorari for quashing the order dated 18.12.2023 passed by the Senior Divisional Engineer (II) East Central Railway, DDU (speaking order) passed in the light of the order dated 02.11.2023 in C.W.J.C. No. 12144 of 2019 by the Hon’ble Patna High Court by which the respondent authority has been pleased to observe that the area of 600 sq ft. given to the petitioner to be vacated at the earliest as redevelopment work of Gaya Railway Station can be done and circulating area may be conducted smoothly in time; on the ground that



the direction passed by the Hon'ble Patna High court to conduct a re-surveyed is not been furnished to the petitioner; the order being apssed is a non-speaking order; there is no reason assigned to retract the statement as passed by the Hon'ble Patna High Court without given any reasons, it is a non-consideration as show cause reply;

II. The present writ application is filed in the nature of Certiorari for quashing the letter dated 17.01.2024 issued by the Senior Divisional Engineer (II) East Central Railway, DDU by which a direction is being given to the petitioner to vacate the premises by 31.01.2024 otherwise departmental action would be taken to vacate the said premises for the same cost is to be borne by the petitioner; on the ground that there is no non-speaking order by the respondent authority, therefore, the subsequent order of vacating the premises by 31.01.2024 is also bad in the eye of law.

III. The present writ application is filed in the nature of Mandamus for a direction to the respondent authority especially Senior Divisional Engineer (II) East Central Railway, DDU and other respondents not to disturb possession of the petitioner of 600 sq. ft. of land for which the present petitioner has been continue his business right from 1974 till today without proper action in accordance with law.”

3. Learned counsel for the petitioner has stated that on an earlier occasion the petitioner had approached this Court by way of C.W.J.C. bearing No. 12144 of 2019 dated 02.11.2023



(Annexure -P/17), wherein this Court has directed the respondent authority to undertake survey and verify as to whether the parcel of land in possession of the petitioner is coming under the re-development of Gaya Railway Station and thereafter it was directed to pass a detailed/speaking order. Learned counsel has stated that following the said direction, the petitioner has given a suitable representation, however the authority without following the dictate of the Division Bench has passed the impugned order on 18.12.2023 rejecting the case of the petitioner. Learned counsel has stated that contrary to the directions of this Court, the authority has passed the order in a cryptic and mechanical manner. The authority except stating that it is a speaking order has not passed the order duly giving any reasons and the same is in violation of the directions given by this Hon'ble Court. Learned counsel for the petitioner has, therefore, prayed this Hon'ble Court to allow the present writ petition and remand the matter back to the authority concerned for passing orders afresh duly keeping in mind the directions given by the Hon'ble Court in earlier round of litigation.

4. *Per contra*, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that the petitioner on one pretext or another is trying to retain his



possession over the subject land. Learned counsel has stated that the railway authorities in order to renovate and redevelop the Gaya Railway Station have been issuing notices to all the vendors who are operating from the platform to vacate the premises. Learned counsel has stated that the petitioner does not have any right to question the authority of the railways more so when the petitioner is only a licensee and not a lessee. Learned counsel has stated that the licensee is bound to vacate the premises as and when required by the licensor. Learned counsel for the respondent has stated that due to the stay granted by this Court on 23.02.2024, the subject premises has come under litigation and the development work of renovation of the Gaya Railway Station has come to a stand still. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. Though the petitioner has tried to impress upon this Court that the order passed by the authority pursuant to the direction of the Division Bench is contrary to the directions given, a perusal of the impugned order reveals that the authority before passing the order, duly taking into consideration the directions given by the Division Bench, has resurveyed the subject land and found that the railway land on which the shop of the petitioner is situated is required for the re-development of the Gaya Railway



Station and its circulating area. Further, it is an admitted fact that the petitioner is only a licensee and not a lease holder, the law on license is well settled, the licensee has to vacate the premises as and when the same is required by the licensing authority. Merely because the order is short, it cannot be said that the order is cryptic and not in accordance with the directions given by the Division Bench. The order speaks for itself, a perusal of the same reveals that the authority duly taking into consideration all the relevant facts has passed the impugned order. Though the petitioner has relied on the judgment of Hon'ble Supreme Court reported in the case of ***OXRY FISHERIES PRIVATE LIMITED versus UNION OF INDIA*** in ***Para 40*** reported in ***(2010) 13 SCC 427.***, it is to be kept in mind that the same is not applicable to the facts of the present case. Once it is held that the petitioner is only a licensee, the petitioner does not have any legs to stand. Further, it is to be noted that once a survey has been done and it is found that the shop of the petitioner is coming in the way of the re-development, no equities can be shown in favour of the petitioner. The re-development of the entire railway station cannot be stalled for the sake of the petitioner. Further, it is to be noted that the license period has also expired and as on date, there is no valid license subsisting in the name of the petitioner. Duly taking into



consideration the totality of the circumstances and also the well settled law into consideration, this Court does not find any merit in the present writ petition and the same is accordingly dismissed. However, liberty is granted to the petitioner to approach the authority concerned by way of representation seeking allotment of alternate accommodation for running his shop. If any such application/ representation is made, the same shall be considered by the authority concerned duly taking into consideration the age of the petitioner, the number of years that he has been running the shop in the railway premises and any other ground that the petitioner may raise.

6. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

Gauravkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.02.2025
Transmission Date	N/A

