

IN THE HIGH COURT OF JHARKHAND AT RANCHI
WP(C) No.5474 of 2018

1. Saroj Devi @ Sarjo Devi, aged about 65 years, wife of late Anup Sao.
2. Dev Sharan Saw @ Dev Sharan aged about 42 years, S/o late Anup Sao.
3. Shiv Sharan Saw @ Shiv Sharan Sao, aged about 40 years, s/o Late Anup Sao.

All resident of Barkakana, Post office and Police Station Barkakana, District Hazaribagh, now District Ramgarh (Jharkhand) Petitioners

Versus

1. Union of India through Chief Commercial Manager, East Central Railway. Hazipur, P.O. & P.S. Hazipur, District Vaishali (Bihar).
2. Senior Divisional Engineer, East Central Railway, Dhanbad, At, P.O., P.S. and district Dhanbad (Jharkhand).
3. Assistant Engineer, East Central Railway, Barkakana, At, P.O. & P.S. Barkakana, District Hazaribagh now Ramgarh (Jharkhand).
4. Estate Officer-cum-Divisional Engineer (3), East Central Railway, Dhanbad, At, P.O., P.S. and district Dhanbad (Jharkhand)

... Respondent(s)

CORAM: SRI ANANDA SEN, J.

For the Petitioner (s)	:	Mr. Arjun Narayan Deo, Advocate
For the Respondent(s)	:	Mr. Gautam Rakesh, Advocate
		Mrs. Nitu Sinha, Advocate

11/09.04.2026 Heard learned counsel appearing for the petitioner and learned counsel appearing for the State.

2. This writ petition has been filed under Article 226 of the Constitution filed by the petitioner. In paragraph one of petition, the petitioner has made the following prayer: -

“For issuance of a writ of mandamus or any appropriate writ/writs, order/orders, direction/directions for quashing of the judgment of Sri Om Prakash, learned District Judge-II, Ramgarh dated 30.08.2018 passed in Misc. (Annexure-8) Appeal No. 18 of 2007, whereby and whereunder he has been pleased to set aside the order of Estate officer-cum-Divisional Engineer (3), East Central Railway, Dhanbad, respondent no.4, dated 17.09.2007 passed in Case No. EL/1/BARKA/2006 for eviction of the petitioners from 24616 Sq. Ft. of land bearing plot no. 316 of Khata no. 58, situated in Mouza Barkakana, Thana no. 77, P.O. & P.S. Barkakana, District Hazaribagh at present Ramgarh and remitted back the case to the State Officer, Dhanbad with a direction to decide it as a fresh within 6 months from the date of receiving

of the case record and also making a prayer to restrain the respondents from interfering the right, title and peaceful possession of the petitioners over the aforesaid land.”

Whereas in the prayer portion, the petitioner has made the following prayer: -

“It is, therefore, respectfully prayed that Your Lordships may graciously be pleased to admit this writ application and issue RULE NISI in the nature of writ of mandamus other writ/any writs, order/orders, direction/directions commanding the Respondents to show cause as to why they should not be restrained from disturbing the peaceful possession of the petitioners as well as the right, title and possession perfected by the petitioners by virtue of adverse possession over the land of plot no. 316 and other plots pertaining to khata no. 58 measuring an area of 24616 sq.ft. in Mouza Barkakana, P.O. & P.S. Barkakana, District Hazaribagh at present Ramgarh AND on return of the RULE and after considering the show cause, if any, and after hearing the counsel for both the parties Your Lordships may further be pleased to make the RULE absolute against the respondents by restraining the respondents from interfering with the right, title and peaceful possession of the petitioners over the land of plot no. 316 and other plots pertaining to khata no. 58 measuring an area of 24616 sq.ft. in Mouza P.O. & P.S. Barkakana, Barkakana, District Hazaribagh at present Ramgarh.”

3. From perusal of both, I find that both, ‘the prayer made in paragraph one and the prayer made in the prayer portion of the petition are different.

4. It is an admitted case that a proceeding under the Public Premises Eviction of Unauthorized Occupants Act was initiated against the petitioner by the Estate Officer, East Central Railway, Dhanbad and the order of eviction was passed against the petitioner by the Estate Officer. Being aggrieved with the aforesaid order of the State Officer, the petitioner preferred Misc. Appeal being Misc. Appeal No.18 of 2007 before the District Judge, Ramgarh, which was ultimately heard by

District Judge-II, Ramgarh. The learned District Judge after hearing the parties and after going through the records, vide judgment dated 30th day of August 2018, allowed the Misc. Appeal and the impugned order dated 17/9/2007 passed by the Estate Officer-cum-Divisional Engineer-III, East Central Railway, Dhanbad was set-aside. After setting aside the same by the said Judgment, the learned District Judge remitted the matter back to the Estate Officer, East Central Railway, Dhanbad with a direction to decide the matter afresh within six months. The petitioner thereafter has approached this Court for the reliefs mentioned above.

5. If I consider paragraph one of the petition, I do not find any substantive material for making the aforesaid prayer. When, the District Judge has already set aside the impugned order of eviction passed by the State Officer, which amounts to favouring the petitioner and granting the relief, which the petitioner has sought for in the Misc. Appeal, then why the petitioner needs to make the prayer in the first paragraph, is beyond comprehension. Once the Misc. Appeal was allowed and the impugned order of eviction was set aside, it cannot be said that the petitioner has been declared to be an illegal occupant of the premises in question.

6. Further, since the matter has been remitted back to the Estate Officer, the Estate Officer has to start a proceeding afresh. Only after final order is passed by the Estate Officer and if the same goes against the petitioner, then only it can be presumed that the petitioner is aggrieved. But at this stage, when the order of the Estate Officer is set aside and the matter is remitted back, it cannot be said that the petitioner is aggrieved by the said order.

7. If I consider the prayer made in the prayer portion, then it is clear that the petitioner is claiming right of adverse possession. If the petitioner is claiming adverse possession, the petitioner has to himself initiate some proceeding before the civil court, which the petitioner has admittedly not done. Further this can be a defense before the Estate Officer also.

8. The question of adverse possession and decision in respect of adverse possession cannot be decided in an application filed under Article 226 of the Constitution as the same involves complicated question of facts, which needs to be established by law and by oral and documentary evidences. Thus, no relief can be granted to this petitioner in this writ petition.

9. It is open to the petitioner to approach the Estate Officer and raise all his defense. If at all anything is pending pursuant to his grievance after the final order is passed by the Estate Officer and that is against the petitioner, it is open to the petitioner to challenge the same before appropriate Forum.

10. In view of the above analysis and observation, this writ petition is disposed of.

(ANANDA SEN, J.)

09.04.2026

R.Kumar