

F.No. 3145/2026

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RCA No. 117/2026

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
GWALIOR (M.P.)/ APPELLATE AUTHORITY UNDER PUBLIC
PREMISES ACT, 1971**

(Presided over by : Lalit Kishore)

Registration No.- RCA/117/2026

Filing No.-3145/2026

CNR No. MP0701-011180-2026

Filing Date-11-05-2026

Registration Dt. - 18-05-2026

Brijmohan Pathak S/o late Shri
Prabhudayal Pathak, Age-63 years, R/o
Jwalaprasad Ka Pura, Laxmibai Colony, -- ---- **Appellant/**
Gwalior (M.P.) **Defendant**

V/s

1- Union of India through Divisional
Railway Manager (work) North Central
Railway, Jhansi (U.P.)

2- Senior Divisional Engineer (North)
North Central Railway, Jhansi Division
Distt. Jhansi (U.P.)

3- Estate Officer, Senior Divisional
Engineer (North) North Central Railway, -- ---- **Respondents/**
Jhansi (U.P.) **Plaintiffs**

Arising out from the Judgment dated 20-04-2026 passed by Shri Ajay Kumar Meena, Estate Officer, Senior Divisional Engineer (North) North Central Railway, Jhansi Division in Case No. JHS/EO/N/794.

PRESENCE

Ld. Senior Counsel **Shri Naval Gupta** with Ld. Counsel **Shri R.P. Gupta** for
appellant
Ld. Counsel **Smt. Ashi Gupta** for respondents

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JUDGMENT**(Delivered on 07-08-2026 in open Court)**

1- This appeal has been filed by the appellant under Section 9 of The Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred as "PP Act" in short) challenging the impugned judgment dated 20-04-2026 passed by Shri Ajay Kumar Meena, Estate Officer, Senior Divisional Engineer (North) North Central Railway, Jhansi Division in Case No. JHS/EO/N/794, whereby the Estate Officer has passed an order U/s 4 and 7 of PP Act against appellant regarding to vacate premises 11.70 Sq.Mt. railway land and hand over the vacant possession to the plaintiff within one month from receiving of the impugned order. It has also directed to the appellant to pay the outstanding dues/compensation to the plaintiff since 01-10-2024 to 20-04-2026 including GST within one month of receipt of the order and also pay the compensation amount as per the policy of the Railway Board till the date of vacating possession.

2- It is emerged as a noticeable/undisputed facts that the disputed shop is situated at Station Approach Road, Gwalior and a renovation/redevelopment work of the Gwalior Railway Station is running. It is also a peculiar fact that the appellant was a licensee in the aforementioned premises/shop and license was given by the Divisional Railway Manager Works. It is also make clear that for the sake of convenience "appellant" shall be referred to as "defendant" and "respondent" be referred to as "plaintiff" in the following paras of the judgment.

3- The facts in brief for the disposal of this appeal are that plaintiff filed an application under Section 4 and 7 of PP Act 1971 for eviction of the premises measuring 11.70 Sq.Mt. railway land as shown in the attached plan (Annexure A), situated at near railway station, Pahuch Marg Gwalior (station bajariya) Distt. Gwalior (M.P.). The plaintiff has further pleaded that the aforesaid premises has been encroached upon since 01-10-2024 by the appellant/defendant and total Rs. 77401.19 are

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due since 01-10-2024 to 31-10-2025 with GST Rs. 12702.30. Plaintiff has also pleaded that in spite of repeated notice and a registered A.D. notice dated 13-08-2024 appellant still in possession of the aforesaid land/shop and he has not paid the damages for wrongful use thereof, hence in the sequel thereof plaintiff has prayed for eviction the aforesaid shop and also prayed for damages/outstanding amount as per railway policy.

4- A show cause notice was issued from the Estate Officer to the defendant/appellant, then Ld. counsel Gajendra Khare has appeared on behalf of the defendant/appellant and stated that a writ petition no. 32369/2024 is pending before the Hon'ble High Court and also filed his reply on 17-12-2025 and opposed the allegations mentioned in the complaint and stated that appellant was a licensee under railway policy/guidelines and he is not unauthorized occupants. He has also submitted that appellant/defendant has been operating a shop since 01-12-1979 and continue depositing the rent and still ready and willing to deposit the outstanding license rent as per Railway Board guidelines. He has also submitted that the notice u/S 7(3) of PP Act 1971 is not justified and is liable to be cancelled, because the reply of the notice dated 30-08-2024 was given to the concern railway authority and it was stated in the reply that a writ petition no. 32369/2024 is pending before the Hon'ble High Court of Madhya Pradesh bench Gwalior.

5- Further, He has also submitted that appellant is in legal possession in the aforementioned shop because shop was given to him through a license under the guidelines of Railway Board. He is running the shop and earning his livelihood. He has also submitted that, if the questioned shop is required for the redevelopment of the Railway Station, then he is ready to surrender the licensed shop on the condition that after the redevelopment of Railway Station, a shop of the same size be given to him by the Railway Authority. Thereafter, defendant/appellant has filed an application for obtaining copy of requisite site plan of proposed

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railway station and other documents for proper adjudication of the case, but no document has been supplied and without given the proper hearing impugned judgment has been passed on 20-04-2026 against the law.

6- Feeling aggrieved by the impugned judgment dated 20-04-2026, this appeal has been filed by the defendant/appellant on the grounds that the order passed by the Ld. Estate Officer is against the established principles of law and is liable to be set aside. He has also taken the ground that the questioned shop/premises was duly allotted to him since 01-12-1979 by the plaintiff/respondents and he is regularly paying the rent. He has also submitted that on 30-08-2024, the license of the questioned shop was cancelled with the pretext of Railway Station Redevelopment and Renovation Scheme. He has also taken the ground that in pursuance of the notice dated 30-08-2024, appellant has filed a Writ Petition No. 32369/2024 before the Hon'ble High Court of M.P. Bench Gwalior, but despite the knowledge of the fact that aforesaid writ petition is pending, Estate Officer has passed the impugned Order arbitrarily, which is totally contrary to the law. He has also taken the ground that appellant had already paid the rent arrears. He has also stated that one another shop was allotted to *Anjali Food Junction* for a period of 5 years in front of appellant's shop, which shows that there is no requirement of the questioned shop to the railway authority regarding redevelopment/renovation of the railway station. It is also submitted that Estate Officer has passed the impugned order without giving proper opportunity of hearing and without given the requisite documents, hence this appeal.

7- Per contra, Ld. counsel Smt. Gupta for the plaintiff/respondent has filed the written argument and opposed the appeal and took preliminary objection that the appeal filed by the appellant does not have any substance and the impugned order is well reasoned and justified and the present appeal is not maintainable and deserves dismissal, as the appellant's license was terminated by the respondent because Redevelopment and Renovation work of the Railway Station was going on. He has also taken the ground that the questioned land/shop was given

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to the appellant on license, which already has been terminated. After termination of the license, the appellant is in illegal possession of the aforesaid premises. It is also contented that due to railway station redevelopment, plaintiff is entitled to resume possession of the questioned shop in accordance with law and policy, and the appellant cannot claim renewal of license as a matter of right and prayed for dismissal of the instant appeal being bereft of merit and substance.

8- In view of the argument addressed by both the parties, documents available on record perused and the following point is to be dealt with to adjudicate this appeal:-

i) Whether the judgment dated 20-04-2026 passed by the Ld. Estate Officer is incorrect in the eyes of law and facts and liable to be set-aside ?

//Discussion & conclusion //

9- Before dwelling upon the documents available on record, it is appropriate to refer to the provisions of Section 4 and 5 of the PP Act 1971, which are as follows :-

4. Issue of notice to show cause against order of eviction.—*[(1) If the estate officer has information that any person is in unauthorised occupation of any public premises and that he should be evicted, the estate officer shall issue in the manner hereinafter provided a notice in writing within seven working days from the date of receipt of the information regarding the unauthorised occupation calling upon the person concerned to show cause why an order of eviction should not be made.*

(1A) If the estate officer knows or has reasons to believe that any person is in unauthorised occupation of the public premises, then, without prejudice to the provisions of sub-section (1), he shall forthwith issue a

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notice in writing calling upon the person concerned to show cause why an order of eviction should not be made.

(1B) Any delay in issuing a notice referred to in sub-sections (1) and (1A) shall not vitiate the proceedings under this Act.]

(2) The notice shall—

(a) specify the grounds on which the order of eviction is proposed to be made; and

[(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the public premises,—

(i) to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not [later than] seven days from the date of issue thereof, and

(ii) to appear before the estate officer on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown, and also for personal hearing, if such hearing is desired.]

(3) The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

10- As per Section 5 of the PP Act, 1971 which is as under-

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5. Eviction of unauthorised occupants.— [(1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence produced by him in support of the same and after personal hearing, if any, given under sub-clause (ii) of clause (b) of sub-section (2) of section 4, the estate officer is satisfied that the public premises are in unauthorised occupation, the estate officer shall make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order but not later than fifteen days from the date of the order, by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises:

Provided that every order under this sub-section shall be made by the estate officer as expeditiously as possible and all endeavour shall be made by him to issue the order within fifteen days of the date specified in the notice under sub-section (1) or sub-section (1A), as the case may be, of section 4.]

(2) If any person refuses or fails to comply with the order of eviction 3[on or before the date specified in the said order or within fifteen days of the date of its publication under sub-section (1), whichever is later,] the estate officer or any other officer duly authorised by the estate officer in this behalf 4[may after the date so specified or after the expiry of the period aforesaid, whichever is later, evict that person] from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary.

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[Provided that if the estate officer is satisfied, for reasons to be recorded in writing, that there exists any compelling reason which prevents the person from vacating the premises within fifteen days, the estate officer may grant another fifteen days from the date of expiry of the order under sub-section (1) to the person to vacate the premises.]

11- Ld. Counsel Shri Gupta for the appellant has strenuously argued that the railway authority want to vacate the questioned shop forcefully, while appellant has a license for this shop. He has also argued that proper opportunity was not given to him by the Estate Officer. In support of his contention, Ld. counsel has placed his reliance upon ***Kranti Associates Private Limited and another Vs. Masood Ahmed Khan and other, (2010) 9 SCC 496.***

12- To the contrary, Ld. counsel Smt. Gupta appeared on behalf of the plaintiff/respondent has argued that questioned shop was allotted on temporary basis to the appellant by issuing a license, and validity of said license has been terminated on 31-03-2024 due to the requirement of the Gwalior Railway Station Redevelopment and Renovation Scheme, but despite the termination of license, appellant is still in the possession of the shop/public land, therefore the appellant is an unauthorized occupant. To bolster her argument, she placed reliance upon the case law ***Corporation of Calicut Vs. Sreenivasan, 2002(5) SCC 361 and Jiwan Das Vs. Life Insurance Corporation of India, 1994 SCC Supl(3) 694,*** in which the Hon'ble Apex Court affirmed that once a license is terminated or revoked, the continuance in possession of the licensee automatically becomes "unauthorized occupant" under the PP Act.

13- I have heard the submissions of Ld. Counsel of the parties and perused the record carefully. From perusal of record it reveals that initially a railway shop measuring 66 Sq.Ft. (11.70 Sq.Mt.) at Gwalior Railway Station Approach Road was temporary allotted since 11-12-1983 to 11-12-1984 (for one year) by divisional Railway Manager vide agreement dated 11-12-1983 and there was a condition in the agreement

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that *license holder/plaintiff have to vacate the railway land if required by the railway administration for any work on receipt of one month notice*. From perusal of records, it also reveals that notice was issued on 13-08-2024 by Senior Divisional Engineer (North) to appellant for vacate the aforesaid land/shop and deposit the outstanding amount. It is also worth mentioning here that in the aforesaid notice dated 13-08-2024, it is mentioned that the tenure of the license of the shop has been expired on 31-03-2024. A renovation/redevelopment work of the railway station is going on and the aforementioned shop/land is required for aforesaid work. The defendant/appellant was also directed that if the aforesaid shop/land will not vacated within 30 days from the received of this notice then legal action will be taken.

14- In this regard, Ld. counsel for the appellant has argued that he had deposited the arrears of rent. However, he has not taken such ground that he had not received the notice dated 13-08-2024. So it can easily presume that the notice dated 13-08-2024 was delivered to the appellant vide which appellant was directed to vacate the premises. Ld. Counsel for the appellant has also argued that Estate Officer has not given an opportunity to hearing and he has not supplied the documents, but from the perusal of order sheet dated 07-01-2026, it reveals that documents Page 1 to 27 were given to the Ld. counsel of the defendant/appellant and it also reveals that appellant was directed to file the objections/reply, then an application u/S 151 of CPC was filed by the appellant for requisite documents/proposed map on 08-04-2026, which was decided by the Estate Officer along with the judgment dated 20-04-2026. In this regard, Ld. counsel of the respondent has also strenuously argued that proposed map of the Railway Station Gwalior is a secret document which cannot be provide to anyone. Even, it was not required for the proper adjudication of the case. So, it is not dispute that a renovation/redevelopment work is going on the railway station Gwalior and it is also an admitted fact that alleged shop was allotted to the appellant on a lease and lease was terminated on 31-03-2024. So, at this stage the argument of the Ld. counsel for the appellant that Estate Officer

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had not given proper opportunities seems no force.

15- Ld. counsel for the plaintiff has also argued that redevelopment/renovation of the railway station is the necessity because thousand of commuters are required to come and go daily by auto rickshaw and other vehicles movements, for which the questioned land is required to be maintained properly for free flow of traffic without obstructions. From perusal of record it reveals that questioned land/shop was allotted only for a temporary occupation through license and the conditions laid down in the license for temporary occupation of railway land are for protection of preservation of railway property and it also reveals that after cancellation of license, the appellant/defendant become a tress passer in the public premises. In support of her argument, she placed his reliance upon ***S.D. Banti Vs. Divisional Traffic Officer, KSRTC and other 2013(12) SCC 631.***

16- Ld. Counsel for the appellant has also taken a ground that he has filed a Writ Petition No. 32369/2024, which is pending for consideration before the Hon'ble High Court of Madhya Pradesh bench Gwalior and he has deposited the rent and rent receipts are placed with appeal. I have perused the status of the aforesaid Writ Petition, which is pending before the Hon'ble High Court. From perusal of record, it reveals that no order has been passed by the Hon'ble High Court in favour of the appellant and proceeding of the Estate Officer has not been stayed by the Hon'ble High Court since filing the writ petition i.e. 16-10-2024. Even, appellant has not argued that Estate Officer has no authority to hearing the matter.

17- Even, Ld. Counsel for the respondent has also argued that no any interim relief/stay order has been granted by the Hon'ble High Court against the questioned property. It is also argued that redevelopment/renovation work of the railway station is a public interest work and appellant has filed the aforementioned writ petition just to delay the process.

18- In the case in hand, the premises is a government land/shop and it was temporarily allotted to the defendant/appellant on lease and lease

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already has been expired/cancelled by the competent authority and after termination of lease, the appellant become a unlawful or unauthorized occupants.

19- The Public Premises Act has been enacted for eviction of unauthorized occupants from Public Premises and for certain incidental matters. The “**unauthorised occupation**” has been defined in Section 2(g) PP Act, which reads as under :

“Section 2. Definitions. In this Act, unless the context otherwise requires,

....

(g) “unauthorised occupation”, in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other made of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.”

20- It would be pertinent to refer here the judgment of Hon'ble Delhi High Court in **Sushila Verma & Others Vs. Union of India & Another 2002 (65) DRJ 795 (SN)**, wherein it was held that *upon expiry of licence deed by efflux of time and its non renewal, a formal notice under the Public Premises Act is not required for termination of the licence deed.*

21- However, Appellant has already deposited the license rent vide receipt attached with the case file. But in this regard, judgment of Hon'ble Apex Court **Sarup Singh Gupta vs S. Jagdish Singh And Ors. AIR 2006 SC 1734**, which has been considered by the Hon'ble Apex Court in **DDA Vs. Anant Raj Agencies Pvt. Ltd. 2016(11) SCC 406 Civil Appeal No. 3783 2016**, in which Hon'ble Apex Court has held that-

“8...In our view, mere acceptance of rent did not by itself constitute an act of the nature envisaged by

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Section 113, Transfer of Property Act showing an intention to treat the lease as subsisting. The fact remains that even after accepting the rent tendered, the landlord did file a suit for eviction, and even while prosecuting the suit accepted the rent which was being paid to him by the tenant. It cannot, therefore, be said that by accepting rent, he intended to waive the notice to quit and to treat the lease as subsisting. We cannot ignore the fact that in any event, even if rent was neither tendered nor accepted, the landlord in the event of success would be entitled to the payment of the arrears of rent. To avoid any controversy, in the event of termination of lease the practice followed by the courts is to permit the landlord to receive each month by way of compensation for the use and occupation of the premises, an amount equal to the monthly rent payable by the tenant. It cannot, therefore, be said that mere acceptance of rent amounts to waiver of notice to quit unless there be any other evidence to prove or establish that the landlord so intended...”

22- After perusal of the record and taken the guidance from the judgment produced by the plaintiff/respondent and appellant/defendant, it reveals that the appellant is licensee, which was expired on 31-03-2024 and ***a license by definition does not create any interest in the property.*** Hence, only deposited the license fee does not amount to an automatic extension of an expired license, therefore the argument of Ld. Counsel of the appellant seems no force.

23- It is also worth apt mentioned here that Hon'ble Apex Court has held in case ***Ashoka Marketing Ltd. and others Vs. Punjab National Bank and others 1990(4) SCC 406, that the PPE Act is a special enactment designed to ensure speedy recovery of public premises in public interest, commercial occupants cannot defeat public utility/redevelopment scheme by ascertaining private commercial***

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interest.

24- In view of the above, the appellant was a licensee, which has been expired on 31.03.2024. After allowing further retention for one month as per rules, the allotment was cancelled w.e.f. 01.05.2024. Then, it was incumbent upon the appellant to hand over the vacant possession of the said shop/land after expire the license, which he failed to do so.

25- However, Ld. counsel for the appellant has also argued that he is in possession of the premises since long time and his whole family depend on the aforementioned shop. If he will vacate the premises, then his family will ruin, so he has also prayed for consideration of any alternative space/shop. He has also further argued that another shop situated in front his shop was allotted to Anjali Food Junction for five years. To the Contrary, Ld. counsel for the respondent/plaintiff has opposed the prayer on the ground that the appellant was merely a licensee and his license was terminated on 31-03-2024 and a notice was also served in this regard. Even, as per agreement, there was no condition that appellant will get any alternative accommodation in lieu of termination of license. In this regard, Ld. counsel for the respondent has referred the judgment of Hon'ble High Court of Andhra Pradesh in ***P. Ram Babu and other Vs. Union of India & Another, 2011*** wherein it was held that *temporary commercial licensee issued by Railways do not confer any proprietary or tenancy rights. Upon determination or expiry of the license, occupation becomes unauthorized, and the railways as true owners have full authority to evict occupants under Section 4 and 5 of the PP Act 1971 without any obligation to provide alternative accommodation.*

26- I have again perused the record, it appears that there was no condition given in the license/agreement that on termination of license appellant will get any alternative accommodation. Even, as per the license agreement, *the railway administration reserves the unconditional right to determine/cancel the license at any time by issuing one calendar month's written notice, without any liability to pay compensation.*

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However, in the opinion of this Court, let the appellant vacate and deliver the vacant peaceful possession and deposit the outstanding/damage amount and obtain acknowledgment thereof and thereafter he may apply afresh before Railway Authority, then the railway authorities may consider the case of the appellant.

27- Hence, as discussed above, in the considered opinion of this Court, the judgment passed by learned Estate Officer is in accordance with law and material available on record as also there is no perversity, hence, no interference is required.

28- Accordingly, impugned judgment dated 20-04-2026 passed by Estate Officer, Senior Divisional Engineer (North) North Central Railway, Jhansi in Case No. JHS/EO/N/794 is hereby **upheld**. Consequently, the appeal is hereby **dismissed**.

29- Record of the Estate Officer be returned along with copy of this judgment for information and necessary action.

30- Both parties will bear their own cost, advocate fee be paid according to law. Case be sent to record-room.

Date : 07-08-2026
Gwalior

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Copy forwarded to : Estate Officer, Senior Divisional Engineer (North), North Central Railway, Jhansi along with case JHS/EO/N/794 Judgment dated 20-04-2026 for information.

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