

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 4215 of 2026

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1. The Union of India through the General Manager, N.F. Railway, Gauhati (Maligaon)- 781011.
 2. The Divisional Railway Manager, Katihar, District- Katihar- 854105.
 3. The Senior DPO Katihar, District- Katihar - 854105.
 4. The Senior Divisional Engineer (C), Katihar - 854105.
 5. The APO/1, Katihar, District- Katihar - 854105.
 6. The Chief Office Superintendent, Engineering, District- Katihar - 854105.

... .. Petitioner/s

Versus

Naveen Kumar Thakur S/o Late B.N. Thakur, Near Kaliwari, Shyam Vatika,
Jamuna Flower Mill Campus, District- Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sujeet Kumar Sinha, Advocate

For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date: 21-07-2026

The present writ petition has been filed challenging the order dated 17.01.2025 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to the learned CAT) in O.A./050/00548/2022, whereby and whereunder the O.A. filed by the sole respondent has been allowed in the following terms:-

“Hence, in view of the above discussion of the factual matrix and admitted position of the above facts by the

respondent authorities the O.A. is fit to be allowed. Accordingly, the relief claimed in this O.A. is allowed by way of quashing the Order No. M/1/Misc dated 25.01.2022 Annexure A-11 of this O.A. as also the order dated 08.06.2022 Annexure A/12 of this O.A. The respondent authorities are further directed to refund whatever amount of damage rent that may have been recovered from the applicant on this count of damage rent. No order as to cost.”

2. The petitioners have also challenged the order dated 21.07.2025 passed by the learned CAT in RA/050/00012/2025 whereby and whereunder the review petition filed by the petitioners has been dismissed finding that there is no apparent error on the face of record, either of fact or law.

3. The brief facts of the case are that while the sole respondent was posted at DRM (W), Katihar, he was allotted Quarter No. 951/B at Sahebpara. The respondent was then transferred vide order dated 20.01.2014 from Katihar to Kasba under SSE (P. Way) under the Purnea division, pursuant whereto the respondent had joined at Kasba on 31.01.2014, whereafter he had applied for clearance vide application dated 02.02.2015 stating therein that after his transfer from Katihar, the railway quarter has been vacated.

The respondent had again filed an application dated 24.3.2015 before the Sr. DEN/Katihar stating therein that after his transfer to Kasba, he has got no concern with the quarter of Katihar, hence he should be allotted a quarter at Kasba. The respondent is stated to have given several reminders and had made several requests before the petitioners for allotting him a quarter at Kasba, however instead the DRM (W), Katihar had issued a letter dated 21.12.2015 directing the respondent to hand over the quarter and it was further stated therein that till the quarter is handed over, damage rent would be recovered from the pay of the respondent. The respondent had then replied vide letter dated 27.01.2016 stating therein that he is having no concern with the quarter at Katihar, his wife is illegally occupying the said quarter with whom he has got no concern and in fact, he is making payment of the maintenance amount as fixed by the Ld. Court of Principal Judge, Family Court, Katihar, hence his wife is a trespasser and the Railway can take possession of Quarter No. 951/B.

4. The Sr. DEN/C Katihar had then taken a decision on 10.04.2017, whereby it was decided not to recover damage rent from the sole respondent and instead initiate eviction

proceedings against the illegal occupier, i.e. Smt. Bhawani Thakur (wife of the respondent). The petitioners had then issued a notice dated 19.04.2017 in Form-A to the wife of the respondent under Section 4 of The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the Act, 1971), *inter-alia* on the following grounds:-

“The Railway Qr. No-951/B at Sahebpara, Katihar was allotted to Shri Naveen Thakur when he was working at Katihar as JE(P-Way) under SSE/USFD/KIR, but now transferred to Kasba as SSE/P-Way under jurisdiction of SSE/P-Way/PRNA vide DRM/P/KIR's office Order No- E/227/1Rectt)1) Pt- II dated- 20/01/14 and joined there on 30/01/14 and applied for vacation of the same stated that there is legal dispute with his wife for which maintenance charges of Rs. 12000/- per month against maintenance Case No-74/2013 is being paid, but still you are not vacated the railway quarter.

Now therefore in pursuance of Sub-section (I) of Section 4 of the act, I hereby call up on you to show cause on 4th May, 2017 why such an order of eviction should not be made against you.

2. And in pursuance of clause - (B) (II) of Sub-section (2) of Section - 4, I also call up on you to appear before me in person or through duly authorized representative capable to answer all questions in connection with the matter along with the evidence which you intend to produce in support of the case shown on 4th May, 2017 personal hearing in case, if you fail to appear on the said date and time the case will be decided exparte.”

5. Thereafter, another notice dated 12.07.2017 in Form-

B was issued to the wife of the petitioner namely, Smt.

Bhawani Thakur mentioning therein the following reasons:-

*“You are still unauthorized occupying **Railway Quarter No. 951/B Type-II at Sahebpara, Katihar** against which show causes notice has already been issued to you, but you have not vacated the Railway quarter up till now.*

*Now therefore, in exercise of the powers conferred me under sub-section (I) of the public premises (Eviction of unauthorized occupants) Act-1971. I hereby order the said **Smt. Bhawani Thakur** and all persons who may be in occupation of the said premises or any part thereof to vacate the said premises within 15 (Fifteen) days of the date of publication of this order. In the event of refusal or failure to comply with this order within period specified above, the said **Smt. Bhawani Thakur** and all other persons concerned are liable to be evicted from the said quarter, if required by the use of such force as necessary.”*

6. The petitioners, instead of concluding the proceedings initiated under the Act, 1971 against the wife of the sole respondent, had started recovering damage rent from him, leading to the sole respondent filing an original application bearing O.A. No./050/00548/2022, *inter-alia* praying therein to quash the order dated 25.01.2022, whereby it was reported that the respondent is still in occupation of Railway Qr. No. 951/B and further to quash the order dated 08.06.2022, whereunder it has been stated that since the

respondent is unauthorizedly occupying the Railway Qr. No. 951/B at Sahebpara, Katihar, damage rent is being recovered from the respondent apart from directing the petitioners herein to allow the respondent to draw the amount of house rent allowance, as admissible to him.

7. The petitioners had filed their written statement before the learned CAT, *inter-alia* stating therein that though, the sole respondent was allotted quarter at Sahebpara, Katihar, however since he did not vacate the same after being transferred from the said place in the year 2014 to Kasba, damage rent is being charged from the sole respondent. Nonetheless, in paragraph no. 14 of the written statement filed by the petitioners before the learned CAT, it was admitted that eviction proceedings have been initiated against the wife of the sole respondent and notices have been issued under Form-A as well as Form-B, however they have not received any vacation report till date from the wife of the respondent.

8. The learned counsel for the petitioners has submitted that the quarter was allotted to the sole respondent, hence it is his duty to hand over the vacant possession of the same to the authorities, however he has failed to do, thus damage rent for

the period of illegal occupation is being rightly charged/ recovered from the pay of respondent. In this regard, reliance has been placed on a judgment rendered by the Hon'ble Apex Court in the case of ***New Delhi Municipal Committee v. Kalu Ram & Anr.***, reported in (1976) 3 SCC 407, paragraph no.2 whereof is reproduced herein below:-

“...When a duty is cast on an authority to determine the arrears of rent, the determination must be in accordance with law. Section 7 only provides a special procedure for the realisation of rent in arrears and does not constitute a source or foundation of a right to claim a debt otherwise time barred. Construing the expression “any money due” in Section 186 of the Indian Companies Act, 1913 the Privy Council held in Hans Raj Gupta v. Official Liquidators of the Dehradun-Mussoorie Electric Tramway Company Ltd. [AIR 1933 PC 63] that this meant moneys due and recoverable in a suit by the company, and observed:

“It is a section which creates a special procedure for obtaining payment of moneys; it is not a section which purports to create a foundation upon which to base a claim for payment. It creates no new rights.”

We are clear that the word “payable” in Section 7, in the context in which it occurs, means “legally recoverable”. Admittedly a suit to recover the arrears instituted on the day the order under Section 7 was

made would have been barred by limitation. The amount in question was therefore irrecoverable. This being the position, the appeal fails and is dismissed with costs.”

9. The learned counsel for the petitioners has next relied on a judgment rendered by the Hon’ble Apex Court in the case of ***State of Kerala v. V.R. Kalliyankutty***, reported in ***AIR 1999 SC 1305***, paragraph no. 12 whereof is reproduced herein below:-

“12. In the case of New Delhi Municipal Committee v. Kalu Ram [(1976) 3 SCC 407] relying on the Privy Council decision in Hansraj Gupta v. Dehra Dun-Mussoorie Electric Tramway Co. Ltd. [AIR 1933 PC 63] this Court interpreted Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 in a similar way. Under that section where any person is in arrears of rent payable in respect of any public premises, the Estate Officer may, by order, require that person to pay the same within such time and in such instalments as may be specified in the order. While considering the meaning of the words “arrears of rent payable” this Court examined whether Section 7 creates a right to realise arrears of rent without any limitation of time. The Court observed that the word “payable” is somewhat indefinite in import and its meaning must be gathered from the context in

which it occurs. In the context of recovery of arrears of rent under Section 7, this Court said that if the recovery is barred by the law of limitation, it is difficult to hold that the Estate Officer could still insist that the said amount was payable. When a duty is cast on an authority to determine the arrears of rent the determination must be in accordance with law. Section 7 only covers arrears not otherwise time-barred.”

10. We have heard the learned counsel for the petitioners and perused the materials on record.

11. The facts of the case lies in a narrow encompass inasmuch as the sole respondent was allotted a quarter at Katihar, whereafter he was transferred to Kasba vide order dated 20.01.2014 where he had joined on 31.01.2014 and then he had immediately applied on 02.02.2015 for being granted clearance report *inasmuch* as he had informed the petitioners that he has vacated the quarter. Nonetheless, the fact remains that the quarter was being occupied by the estranged wife of the respondent with whom a matrimonial dispute is going on before the learned Court of Principal Judge, Family Court, Katihar and in fact, as it appears from records, the respondent was earlier paying a sum of Rs. 12,000/- per month by way of maintenance which was later on enhanced to a sum of Rs.

30,000/- per month, which also includes the cost of residence, electricity charges etc. The petitioners herein, finding the quarter to be in illegal possession had directed for deduction of damage rent from the pay of the respondent, nonetheless upon the respondent having informed the authorities about the ongoing maintenance case with his wife and him paying huge amount of maintenance, the authorities of the petitioners had decided to initiate eviction proceedings, under the provisions contained in Act, 1971, against the wife of the respondent, namely Smt. Bhawani Thakur leading to issuance of notice under Form-A dt. 19.04.2017 as well as under Form-B dated 12.07.2017, assigning appropriate reasons therein for evicting her. Nothing has been brought on record by the petitioners to show as to what happened to the said proceedings initiated under the Act, 1971, hence, this Court is precluded from any knowledge about the outcome of the eviction proceedings.

12. At this juncture, it would be relevant to reproduce Section 5 (1) and Section 5(2) of the Act, 1971 herein below:-

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 (1-A), as the case may be, of section 4.

(2) If any person refuses or fails to comply with the order of eviction 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 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:

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.

13. It is apparent from the aforesaid provisions contained under Section 5 of the Act, 1971 that once the eviction proceedings are set in motion, the same are required to be concluded by passing an order of eviction or otherwise, however, no such order has been brought on record and instead the sole respondent is being penalized by way of recovery of damage rent.

14. We further find from the records that the petitioners have not denied the fact that the sole respondent is not in illegal occupation of the quarter in question, *inasmuch* as they have with full knowledge and with open eyes, initiated eviction proceedings against the wife of the sole respondent, who is stated to be in illegal occupation of the quarter. The authorities of the petitioners very well know about the estranged relationship in between the sole respondent and his wife as also about the maintenance proceedings going on

before the learned Court of Principal Judge, Family Court, Katihar. Thus, the petitioners having not concluded the eviction proceedings, despite having initiated the same and having issued notices to the wife of the sole respondent cannot midway take a U-turn and penalize the sole respondent by making recovery of damage rent from his pay.

15. We further find that it is not a case where the learned Court of Principal Judge, Family Court, Katihar, in the ongoing matrimonial case, has given sanction for certain period for occupation of the quarter by the wife of the respondent, however on the contrary we find that the respondent is paying the amount of maintenance, as has been directed by the learned Court of Principal Judge, Family Court, Katihar, however we do not propose to delve into the said issue in absence of the wife of the respondent being party to the present proceedings.

16. The facts and circumstances of the present case would demonstrate that the petitioners have on the one hand-initiated eviction proceedings under the provisions contained in the Act, 1971 against the wife of the respondent, namely Smt. Bhawani Thakur by issuance of notice under Form-A dt.

19.04.2017 as well as under Form-B dated 12.07.2017, assigning appropriate reasons therein for evicting her, however on the other hand without concluding the said proceedings, they are making recovery of damage rent from the pay of the respondent, for no fault of his, hence the authorities of the petitioners have definitely acted illegally.

17. It is a well settled law that quarters are allotted for official purposes only, tied to employment or posting and retention beyond eligibility is unauthorized, thus the authorities are required to take recourse to the proceedings under the Act, 1971 for eviction of the unauthorised occupant. It's a fundamental principle of law that the nature of occupancy of licensee is permissive which does not create any interest in the property, hence once permission granted to the licensee ceases then, its possession becomes unauthorized. In this regard reference be had to a celebrated judgment rendered by the Hon'ble Apex Court in the case of ***S.D. Bandi v. Karnataka SRTC***, reported in ***(2013) 12 SCC 631***.

18. As far as the judgments referred to by the learned counsel for the petitioners are concerned, the same are in no way connected to the *lis* present in the present case and pertain to the issue as to whether recovery of arrears of rent is

barred by law of limitation or not.

19. Having regard to the facts and circumstances of the case and for the foregoing reasons, we do not find any infirmity either in the order dated 17.01.2025 passed by the learned CAT in O.A. No.050/00548/2022 or the one dated 21.07.2025 passed in RA/050/00012/2025.

20. Consequently, the present writ petition stands dismissed being devoid of any merit.

(Mohit Kumar Shah, J)

(Sourendra Pandey, J)

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CAV DATE	
Uploading Date	05.08.2026.
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