

AD. 8.
March 16, 2022.
MNS.

(Through Video Conference)

WPA No. 4619 of 2022

Suresh Kumar Chandak and others
Vs.
The State of West Bengal and others

Mr. Arindam Banerjee,
Mr. Ashis Kumar Mukherjee,
Mr. Saurabh Prasad

...for the petitioners.

Mr. Alak Kumar Ghosh,
Mr. Gopal Chandra Das,
Mr. Debangshu Mondal

...for the KMC.

The present writ petition has been filed challenging a notice under Section 3 of the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962 [1962 Act].

Learned counsel for the petitioners, in his usual fairness, submits that several writ petitions of similar nature are already pending before a different Bench in this Court. It is further submitted that the present writ petition, although partially including the subject-matter of challenge in a previous writ petition, which is still pending, has been preferred in view of the extremely urgent situation that a hearing of the proceeding pursuant to the impugned notice has been fixed today before the authority. It is submitted

that in view of such predicament, the present writ petition had to be filed.

Learned counsel appearing for the respondent-authorities specifically contends that in some of the other similar matters, orders were passed relegating the petitioners back to the authority, in view of the challenge to the notices therein being held to be premature at this juncture.

Learned counsel for the respondent-authorities vehemently opposes the prayer of the petitioners for any interim order. It is submitted that, taking advantage of the interim order passed in only a few of the said writ petitions, the petitioners have preferred the writ petition.

It is evident that the present writ petition is not maintainable, since the subject matter involved herein is partially in dispute in a preceding writ petition, which is still pending before another Bench of this Court.

Although learned counsel for the petitioners contends that the cause of action in the present writ petition arose subsequent to the earlier one, as the date of hearing has been fixed today, such contention cannot be accepted in view of the fact that the present writ petition is merely an offshoot of the earlier writ petition, where a substantial challenge has been preferred against the notice under Section 3 of the 1962 Act, which is also substantially the

subject-matter of challenge in the present writ petition.

The petitioners, in any event, are at liberty to pray for interim order regarding the proceeding initiated in terms of the impugned notice. However, despite having held that the present writ petition is not maintainable on technical grounds, it is expected that the respondent-authorities shall stay their hands at least till March 25, 2022 and or until appropriate orders, if any, passed in the pending writ petition, to enable the petitioners to move their pending writ petitions before the other Court in the meantime.

It is, however, made clear that the merits of the contentions of the parties and/or the veracity of the impugned notice under Section 3 of the 1962 Act have not been gone into even on a *prima facie* footing.

The above request to the respondent-authorities, to stay their hands, is merely to enable the petitioners, for the ends of justice, to move the other Court for appropriate relief in connection with the preceding writ petition.

WPA No. 4619 of 2022 is accordingly dismissed as not maintainable, on the observations as made above.

However, the petitioners will be at liberty to proceed the pending writ petitions without being prejudiced in any manner by this order.

Needless to say, this order and the request made herein shall be subject to any further order which may be passed in the pending writ petitions.

There will be no order as to costs.

The parties and all concerned shall act on the written communication of the learned Advocates for the parties and/or server copy of this order, without insisting upon prior production of a certified copy thereof.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)