

11 04.05.2023
RP Ct. No. 01
AN

MAT 1583 of 2022
with

IA No. CAN 2 of 2022

Union of India & Ors.

Vs.

Gopal Das Choudhary & Ors.

Mr. Ashok Kr. Chakraborti, learned A.S.G.
Ms. Mary Datta

... For the appellants

Mr. Probal Kr. Mukherjee
Mr. Suhrid Sur

... For respondent 1, 3 to 7

Mr. Arindam Banerjee
Mr. Pranit Bag
Ms. Rituparna Chatterjee
Mr. Srikanta Dutta

... For respondent no. 8

1. This intra-Court appeal is directed against the order dated 18.04.2022 passed in WPA 5095 of 2022. The said order is an interim order wherein the learned Single Bench has analysed the factual position and noted various provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (in short, the said Act) and after assigning detailed reasons, has granted an order of stay of notice and order of eviction passed under Sections 4 and 5 of the said Act.

2. Learned A.S.G. appearing for the appellant submitted that a preliminary objection has been raised with regard to maintainability of the writ petition as an appeal is maintainable against the order impugned in the writ petition under the said Act and the said enactment being a complete Code by itself without exhausting the appellate remedy, the writ petition need not be entertained. It is further submitted that the writ petitioners have no locus standi to question the order which

was passed in a contest by the Association.

3. We have heard learned counsel for the parties elaborately. In any event, the order impugned is only an interim order, it goes without saying that whatever findings recorded by a Court at an interlocutory stage, will be taken as reasons to support the ultimate conclusion for granting an interim order and this may not impinge upon the rights of the parties to raise all issues at the time when the writ petition is heard finally and, therefore, we are of the view that at this juncture, the order impugned need not be interdicted nor interfered with except to clarify that all issues which have been raised by the appellant in this appeal as well as to be raised in the affidavit-in-opposition are left open by clarifying that the observations made by the learned Single Bench in the impugned order are to support the interlocutory order granted during the pendency of the writ petition. Time to file such affidavit-in-opposition granted by the learned Single Bench is extended by four weeks from date. Reply, if any, thereto, may be filed within four weeks thereafter.

3. In the light of the above, the instant appeal stands **disposed of**. Consequently, connected application also stands disposed of.

(T. S. Sivagnanam)
Acting Chief Justice

(Hiranmay Bhattacharyya, J.)