

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Prasenjit Biswas

MAT 1176 of 2025

With

IA No.: CAN 1 of 2025

Sk. Asraful Hasan & Anr.

Vs.

The State of West Bengal & Ors.

For the Appellants	:Mr. Niladri Sekhar Ghosh, Advocate Ms. Labani Sikder, Advocate Mr. Souvik Dey, Advocate
For the State	:Mr. Biswabrata Basu Mallick, Ld. AGP Mr. Biman Halder, Advocate
For the writ petitioner/ Respondent No.6	:Mr. Panchanan Hajra, Advocate
Hearing & Judgment on	: July 29, 2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the private respondents and directed against an interim order dated July 16, 2025 passed in WPA 5483 of 2024.
2. Appellants before us are the sons of a senior citizen.
3. It is the contention of the appellants that, the impugned order places certain obligations upon the appellants which the appellants would not be able to discharge.
4. Learned Advocate appearing for the appellants submits that, the directions contained in the impugned order cannot be passed under

the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

5. State and the writ petitioner/private respondent are represented.
6. Writ petition by the private respondent is still pending. As the father of the appellants (the private respondent) before us is a senior citizen, he initially approached the Maintenance Tribunal under the Act of 2007. Thereafter, the private respondent approached the Writ Court by way of WPA 5483 of 2024 in which the interim order dated July 16, 2025 was passed.
7. By the impugned order, learned Single Judge noted that, the private respondent as a senior citizen was unable to maintain himself out of the landed property which is recorded in his name. Learned Single Judge also found that, the property of the private respondent was yet to be gifted to the appellants before us and that the appellants are enjoying such property belonging to the private respondent making the private respondent unable to use the same for his personal use. Therefore, learned Single Judge restrained the appellants before us from occupying or using or cultivating the plots of land mentioned in Paragraph 3 of the writ petition which was not gifted by the private respondent to the appellants.
8. Admittedly, such plot of land does not stand in the name of the appellants before us. Private respondent gifted certain other properties

- to the appellants. The plots involved in Paragraph 3 are not the gifted property. Such plots stand in the name of the private respondent.
9. Before us the appellants are unable to demonstrate, let alone establish, any right, title and interest to occupy or enjoy the plots or the usufructs thereof, described in Paragraph 3 of the writ petition.
10. The contention that the Act of 2007 does not permit such an order being passed cannot be accepted. Impugned order is interim in nature and passed in favour of a person who *prima facie* appears to be the owner of the plot and against persons who are not in a position to establish any right, title and interest therein.
11. Learned Single Judge exercised discretion in granting an interim order in favour of the private respondent who is the writ petitioner. We do not find that the learned Single Judge exercised discretion in a manner which can be termed as perverse or arbitrary.
12. In any event, the order impugned is interim in nature.
13. We find no ground to interfere with the order impugned.
14. **MAT 1176 of 2025** and connected application are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

15. I agree.

(AD)

(Prasenjit Biswas, J.)