

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya**

**MAT 1326 of 2025
with
CAN 1 of 2025
CAN 2 of 2025
ASIMUL ISLAM
VS.
UNION OF INDIA & ORS**

**with
FMA 1448 of 2025
with
CAN 1 of 2025
RAJU PAL
VS.
UNION OF INDIA & ORS**

**With
FMA 1452 of 2025
with
CAN 1 of 2025
TAPAN HALDER
VS.
UNION OF INDIA & ORS.**

For the appellant	:	Mr. Md. T. Hossain
For the respondents	:	Ms. Anamika Pandey Mr. Ghanshyam Pandey
Heard on	:	22.12.2025
Judgment on	:	22.12.2025

Sabyasachi Bhattacharyya, J.:-

1. The present appeal has been preferred against an order whereby a writ petition, preferred by the appellant against an order passed under Sections 4 and 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, was dismissed.
2. Learned counsel for the appellant submits that the learned Single Judge committed an error of law in dismissing the writ petition only on the ground of availability of alternative remedy, as such availability is not an absolute bar in exercise of jurisdiction under Article 226 of the Constitution of India.
3. Learned counsel also seeks to argue on the merits of the challenge to the order passed by the Estate Officer under the 1971 Act. However, this Court does not permit such submission on merits of the matter, since it would pre-judge the final adjudication of the proceedings at this premature stage.
4. Learned counsel appearing for the Union of India controverts the submissions of the appellant and contends that the learned Single Judge was justified in dismissing the writ petition on the ground of maintainability since a remedy, which is equally efficacious, is available to the appellant by way of a challenge under Section 9 of the 1971 Act.
5. Upon a perusal of the impugned order, we find that the same elaborately dealt with the facets of the challenge.

- 6.** It was argued before the learned Single Judge, on behalf of the appellant, that since a challenge to the notice, which initiated the eviction proceeding under Section 5(1) of the 1971 Act, had also been preferred, a writ petition was maintainable.
- 7.** However, the learned Single Judge observed that the said objection / ground may also be taken in an appeal preferred against the final order passed by the appropriate authority under Section 5 of the 1971 Act.
- 8.** We completely agree with such observation of the learned Single Judge.
- 9.** Although it is a self-imposed restriction, it is now well-settled that if an equally efficacious alternative remedy is available, this Court does not generally interfere under Article 226 of the Constitution of India unless the appellant / writ petitioner exhausts all other remedies available in law.
- 10.** Even otherwise, the writ court is handicapped insofar as disputed and contested questions of facts, requiring evidence to be adduced and appreciated in detail, are concerned, which might be involved in a challenge against the final order under Section 5 of the 1971 Act.
- 11.** Thus, we do not find any scope of interference with the impugned order.

- 12.** Accordingly, MAT 1326 of 2025 is dismissed on contest without any order as to costs, thereby affirming the impugned order dated July 4, 2025 passed in WPA 21016 of 2023 with CAN 1 of 2025.
- 13.** The pending connected applications are also disposed of.
- 14.** Consequentially, the issues involved being identical, FMA 1448 of 2025, preferred against order dated July 18, 2025 passed in WPA 21013 of 2023, and FMA 1452 of 2025, preferred against order dated July 18, 2025 passed in WPA 21011 of 2023, are also dismissed, along with the connected applications in both the appeals.
- 15.** It is made clear that nothing in this judgment or the orders impugned before us shall preclude the appellants in each of the appeals from preferring properly constituted appeals under Section 9 of the 1971 Act against the final orders passed under Section 5 of the 1971 Act, subject to limitation and in accordance with law, if the appellants are otherwise entitled to so prefer.
- 16.** If such appeals are preferred, and if the same are entertained upon crossing the hurdle of limitation, it will be open to the appellants to take all questions taken in the writ petitions, including the challenge to the initial notice(s) which was/were the genesis of the eviction proceeding(s) before the appropriate authority under the 1971 Act.
- 17.** All parties shall act on the basis of the server copy of this order, duly downloaded from the official website of this Court.

18. Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)