

27.11.2025
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WPA 22 of 2025

Indira Lahiri Das
Vs.
Union of India & Ors.

Mr. Apalak Basu
Ms. Sanghamitra Mridha
Ms. Atreya Chakraborty
..... for the petitioner

Mr. P. K. Bhoumick
..... for the respondent no. 1

Mr. Arijit Chakraborti
Mr. Debsoumya Basak
Ms. Swati K. Singh
..... for the E.D.

1. Let affidavit-of-service, as filed in Court, be kept on record.
2. Pursuant to leave granted in the order dated November 12, 2025, Mr. Basu, learned Advocate appearing for the petitioner, has filed a supplementary affidavit which is kept on record.
3. The petitioner challenges the eviction notice issued by the respondent no. 3 on November 8, 2024, under the Prevention of Money Laundering Act, 2002 (PMLA) (hereinafter referred to as the “said Act”), read with the Rules framed thereunder.
4. Mr. Basu, learned Advocate appearing for the petitioner, submits that the petitioner’s case being

M.L. Case No. 01 of 2024, is still pending trial before the Judge, 3rd Bench, (CBI) City Sessions Court, Kolkata, and no finality has been attained as yet.

5. In view thereof, the order of eviction is premature and ought to be set aside.

6. Mr. Chakraborti, learned Advocate appearing for the Enforcement Directorate, has drawn my attention to the fact that the provisional order of attachment which was passed under Section 5(1) of the said Act on May 7, 2012, and was duly confirmed on September 27, 2012, has not been challenged and has attained finality under Section 8(3) of the said Act.

7. Heard the learned Advocates for the parties and perused the records.

8. It is clear that under the relevant provision of the said Act, the authorities have the power to attach and take over actual physical possession of the property, which is not in dispute. It is also not in dispute that in the present case, the order of attachment has already been passed and is presently subsisting. However, it cannot be denied that the trial of the main case being ML 01 of 2024 is still in progress and has not attained finality.

9. It will not be out of place to mention that since the order of attachment has been in subsistence since 2012, there is no exceptional circumstance to warrant confiscation of the property as envisaged under Section 8(4) of the said Act, by way of taking possession of the said property.
10. The Supreme Court has clearly laid down the law in the judgment reported in 2023 (12) SCC 1, that taking possession of the property before a formal order of confiscation is passed merely on the basis of confirmation of the provisional order of attachment should be an exception and not the rule.
11. The Eviction notice of November 8, 2024 is, thus, set aside.
12. However, to protect the interest of the authorities and the process of law which is in progress at trial, the petitioner, his men, agents or assigns are restrained by an order of injunction from dealing with and/or alienating and/or encumbering the properties situated at Flat No. S-9G, 9th Floor, Singhi Park, Kolkata -700019 and Flat No. 2A, Trishita Apartment, 143, NSC Bose Road, Kolkata-700040 in any manner whatsoever.
13. The authorities are directed to take symbolic possession of the property by affixing an

appropriate notice on a conspicuous part of the property, if not already done.

14.The writ petition is, thus, disposed of with the aforestated directions.

15.There shall, however, be no order as to costs.

16.Since no affidavit has been called for, the allegations contained in the writ petition are deemed to be denied.

17.Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Reetobroto Kumar Mitra, J.)