

Item No.2
31.03.2026
Court. No. 12
GB

MAT 514 of 2026
With
CAN 1 of 2026

Pankaj Chakraborty
Vs.
Union of India & Ors.

*Mr. Arabinda Chatterjee, Sr. Adv.,
Ms. Kakali Dutta*

...for the Appellant.

*Mr. S.N. Dutta,
Mr. Arun Bandyopadhyay,
Mr. Avishek Banerjee*

...for the U.O.I.

1. The appeal arises out of a judgment and order dated February 27, 2026, passed by a learned Single Judge in WPA 163003 of 2025.
2. By the order impugned, the learned court rejected the writ petition on the ground that the appellant had acquiesced with the respondent no.2 and had not challenged the order of eviction. The appellant could not be given back possession of the land after a long period of time, that is, after more than three years from the order of eviction.
3. The specific case of Mr. Chatterjee, learned senior advocate is that the order of eviction was never served upon the appellant. The eviction order had come into light only when the affidavit-in-opposition was filed by the respondent no.2 in the writ proceeding, that is, on August 25, 2025. The appellant moved the writ court for a direction upon

the respondent no.2 to handover possession of the land in question which was allegedly taken over without any notice to the appellant. Mr. Chatterjee submits that in various paragraphs of the order impugned, the reasoning of the learned Judge would clearly indicate that the statutory mandates were not followed. In spite of such observations, His Lordship was of the view that a direction to handover possession could not be permitted as the writ petition was filed three years after the eviction order.

4. Learned advocate for the respondent no.2 submits that the order of eviction was passed upon holding a proper proceeding. It was an admitted position that a notice of caveat was received by the appellant sometime in February 2022. His brother was aware of the proceeding as well. The appellant waited for a long time to claim re-possession of the land, after his dispossession had taken place in terms of the eviction order passed by the Estate Officer of the respondent no.2.
5. Mr. Chatterjee has referred to several legal questions as regards the procedure followed by the Estate Officer, especially non-compliance of Section 5(1) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 read with Rule 4 thereunder.
6. We find that an eviction order was passed by the Estate Officer. The said order is an appealable order. According to Mr. Chatterjee, unless the order was served in the manner prescribed under the Statute,

the question of challenging the said order by way of an appeal did not arise. Moreover, the appellant's specific case is that the appellant was unaware of such order of eviction. When the possession was taken, the appellant resisted and ultimately filed a writ petition for redressal of his grievance, with a prayer for handing over the land to the appellant. The eviction order admittedly remained unchallenged.

7. We find that, several observations have been made in the writ petition. However, the order of His Lordship does not pertain to the correctness of the eviction order and, as such, those observations will not affect the appeal which the appellant must file before the competent civil Court, as per the statute against the order of eviction. The Court while deciding the point of limitation, will take into consideration the submissions, that, the appellant did not receive notice of the proceeding before the Estate Officer and was unaware of the same. The eviction order was also not served in the manner prescribed by law. The order of eviction came to the knowledge of the appellant sometime in August 2025. Moreover, the appellant was perusing his remedy before the writ court assailing the actions taken pursuant to the eviction order. The learned court will not be influenced by any of the observations in the order impugned before us. More so because, the order impugned deals with the issue

as to whether the land should be returned to the appellant and not on the merits of the eviction order.

8. Under such circumstances, the appeal shall be filed forthwith. The land is already in the possession of the respondent no.2, who has not yet alienated the same. The land shall not be alienated and third party interest shall not be created in any manner for a period of two months from date or until further orders that may be passed by the learned appellate court, whichever is earlier.
9. Accordingly, the appeal and the connected application are disposed of.
10. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)